

REPUBLIC OF KENYA



COUNTY ASSEMBLY OF SIAYA

DEBATES OF THE COUNTY ASSEMBLY OF SIAYA

THE HANSARD

2016 HANSARD REPORTS

Tuesday, 9th February, 2016 to Thursday, 24th November, 2016

.....

1ST ASSEMBLY,

4TH SESSION

.....

Assembly Buildings, Siaya

Disclaimer: The electronic version of the official Hansard Report is for information purposes only. A Certified copy of this Hansard report can be obtained from the Hansard Editor.

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF SIAYA
THE HANSARD

First County Assembly - Fourth Session

TUESDAY, 9TH FEBRUARY, 2016

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

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

PRAYER

**COMMUNICATION FROM THE
CHAIR**

WELCOMING MEMBERS BACK FROM
RECESS

Hon. Speaker: Hon. Members, we are coming back to our honourable House from where we debate freely under the privileges guaranteed to us by the statutes. I welcome you back from your recess and I am hoping that you have come back more energetic for this active Session and as we do that I also want to request you to rise up for us to honour the late Hon. Odeny Onduru for a minute.

*(The Hon. Members stood for a moment of
silence)*

May God rest his soul in eternal peace, be seated. Thank you, you all know Hon. Odeny upheld an admirable sense of passionate contributions, fidelity to the

rules of debate, independence of thought, resilience, clarity and profound passion especially in House business. Following the demise of the late Hon. Onduru and exercising the powers that are conferred upon me I have since issued a rate and the IEBC is preparing to organize for his replacement. As a House we are hoping that the campaigns of the elections will be peaceful and we will get the best from that election.

Hon. Members, also allow me to make the following communication;

1. We will have a very busy Session and we will want to expedite and indeed dispose of the pending Reports that we had from the last Session. I want to allow the Members to get in. Yes! Sargent-at-arms let them in and I am doing that because being the first day it's understandable that some of us would be late, however rules require that when the Speaker is on his feet we all remain stationary

- wherever we are until he finishes his communication.
2. Other than Reports we have certain pending Bills that are with Committees. I want to urge you to fast track those Bills, I am aware that you had already done public participations and the last phase of it should now be by the Committees to bring their Report to the House. Kindly do so because Bills can always be amended and if you find them unworthy we can always reject them but let us do our bit.
 3. Members while we were on recess the executive sent some 2 Bills which had earlier been informally discussed with the Committee on Education but for the respect for our procedures the Committee requested that our engagement be formal and follow laid down rules. The Committee therefore sort the intervention of the office of the Speaker that this Bills are very urgent more so the bursary Bill, it is as urgent as our students cannot go back to school unless they are paid for bursaries. That bursary can only be paid when we make the law and therefore we permitted that the Committee starts making arrangements for public participations and tomorrow you will be seeing on the local dailies the arrangement that they have for the public participation. They have informed me that the public participation will be in two places that are Bondo former county council offices and Ukwala former county council offices as communication will follow.
 4. With the same breath, there was the issue that Assemblies normally transact one business during the opening which is the approval of names of House Committee Members and because of the urgency of that matter we accepted that we are done with the approval of names of House Business Committee we will go ahead and give first reading for those Bills. It doesn't harm so that they can start moving with speed. We want to encourage Members to be active so that we can has many Bills as possible and the same is extended to Committees and their chairs to push the CECM so that we get many Bills because we will be measured by how many Bills we make. I am also aware Hon. Members that we have now an inbox names for vetting and approval, one is for the County Secretary, the other one is for Chief Officer and some more. So as soon as they come we will prioritise them so that you go with it.
 5. To the PAC & PIC Committee we had a petition that you we handling I am hoping that as soon as practical you will have to give us response to the petitioners and I am also aware that the Report that you just passed had time lines which have to be responded to and to be respected. I want to request you to make a follow up if it is treasury communication as we were told during an induction insist that you get to track how far the action have been taken; the action taken Report for you do not have a lot of time, soon we will also get another audit

Report which we will need to work on. Would you allow me to let other Members who are the door to come in before I proceed?

(Members walked into the chamber)

On the Constitutional Committees Hon. Members we are aware that some of our Committees have a life span of 3 calendar years therefore we expect to reconstitute them this Session then we looked at the date of Constitution of those Committees, that time is beckoning and it should be sometime in April that we reconstitute those Committees and that is for Committees that will get to be reconstituted and the process became political. That is why we have electoral Committees. Members, I want to bring to your attention that we have live broadcasting of our proceedings. I want to encourage committees, that you liaise with the Office of the Clerk so that you can book occasions so that you go and enlighten the public and engage the public on what you do, what your visions and missions are.

I only want to request that when you get those opportunities; use them knowing that you are talking on behalf of the Assembly and not of your own. Because, whatever you say there will be perceived to be that of the position of the Assembly.

I will warn those Members who are for instance; are Vice Chair of PAC. Then you go say, "As the Vice Chair of PAC, I can confirm here that no money was lost..." that would be dangerous! We only want you to talk about the position of a report which has been adopted or

The Budget making process will begin in earnest. And I know, the Budget Committee will be very busy. We want to wish them all the best. Insist so that the Executive does not lag you behind.

Finally, hon. Members, the Deputy Speaker of County Assembly of Siaya, I am informed was elected as the Chair of all Deputy Speakers in the Republic of Kenya. And, I want to congratulate him.

(Applause)

I want to congratulate him and wish him all the best in that position, knowing that as he discharges his duties; he should do it with the compassion of this Assembly, the vigor of this Assembly and the maturity of this Assembly and indeed the ...for he is our ambassador. And every one of us who will get such positions like that in the future. We wish you all the best. Thank you.

(The Speaker consulted with the Clerk-at-the-Table)

Members, I am waiting for Communication from the Office of the Clerk.

NOMINATION OF CANDIDATE TO THE POSITION OF COUNTY SECRETARY

His Excellency the Governor of Siaya County, has sent a communication to us and it reads;-

"Nomination of candidate to the position of the County Secretary

Please refer to the County Public Service Board letter dated 27th January, 2016 attached herewith the information submitting in my office three names of successful candidates for the position of County Secretary.

Section 44 of the County government Act, 2012; provides for the appointment of County Secretary and; paragraph b, thereof particularly states that the County Secretary shall be nominated from persons competitively sourced under paragraph a) by the Governor and by the approval of the County Assembly appointed by the Governor.

In view of the above and in consideration of the critical nature of the Office of the County Secretary who will deliver the services to the people; I nominate and submit to you Mr. Dave

Anyona Kanundu for vetting by County Assembly as is provided by the law.

Please find attached herewith the candidates' resume and other supporting documents to enable the Assembly conduct its processes effectively."

And therefore, this we will commit to the Committee of Appointments.

(Loud Consultations)

Okay, Order hon. Members.

Further Communication, hon. Nashon, which was signed by His Excellency the Governor of the County Government of Siaya.

NOMINATION AND APPOINTMENT
TO THE COUNTY EXECUTIVE COMMITTEE
MEMBER HEALTH SERVICES

"Nomination and appointment of County Executive Committee Member;

Reference has been made to Section 35(1) of the County Government Act, 2012 which gives the Governor authority to nominate and appoint County Executive Members. It is pursuant to this Act that we attach the Curriculum Vitae of one Doctor Charles Olang'o Onudi who His Excellency the Governor has nominated for vetting as a County Executive Committee Member for Health docket.

Please fast track it so that the critical docket has a substantive CEC to execute the mandate of such an office in the County Government of Siaya.

(Loud Consultations)

Order, hon. Members!

(Laughter)

That, we will commit to the Committee of Appointment. There is another Communication that was signed by the acting County Secretary. But, we have since advised His Excellency the Governor that such communications should come addressed to us by Him and not by a nominee or a designee.

(Applause)

SUBMISSION OF NOMINEE CHIEF OFFICER
PUBLIC WORKS, ROADS AND TRANSPORT

Then the other one is a Communication in submission of a nominee for vetting as Chief nominee from this office for vetting and his respective testimonials for ease of reference during the vetting sessions. The name is, Joel Ochieng Oduor; Chief Officer Public Works, Roads and Infrastructure.

That is committed to the Committee of Public Works, Roads and Infrastructure. With all those appointed names; I ask the Office of the Clerk to liaise with the relevant committees so that within the stipulated 14 days we will have these names processed by this House. Thank you.

Next Order!

NOTICE OF MOTION

APPOINTMENT OF MEMBERS TO
THE HOUSE BUSINESS COMMITTEE

Hon. Otieno: Thank you, Mr. Speaker, allow me put a Notice of Motion. Pursuant to Standing Orders No. 152 (1), that this House approves the appointment of the following Members to the House Business Committee in addition to the Members specified in paragraph (a), (b) and (e).

Mr. Speaker, as you are aware that we are in a learning process...

Hon. Speaker: I know the reason he was proceeding, it's not that he doesn't know the rules, it's only that he had confided to the Speaker that he wants to do a Statement and I thought that he would do it at the Statement hour which should be the next Order!

STATEMENT

COMPLEMENTS

Hon. Otieno: Mr. Speaker, Sir; allow me to thank Members for having attended this Session after a very long

recess and as you are aware our Assembly was befallen with a lot of calamities i.e. you are aware we lost one of our very able Member who was also the Chair of Health Committee and I want to thank Members for their full participation especially, Hon. Ombee and other Members who really worked quite closely with Hon. Andiego and Hon. Mary C. Ajwang' in ensuring that this process went smoothly in terms of giving him a befitting send-off including your office, Mr. Speaker, that of the Whip and our office and the entire Membership of this Assembly.

Mr. Speaker, Sir, allow me to thank them for having also abided with rules that we had in terms of contributing. You are aware that our pays slips are seriously committed but these Members still could be able to ensure that this exercise went on well and ensuring that we gave our Member a very defeating send off .

Allow me again, Mr. Speaker, Sir; to say that our Hon. Chief Whip also had a calamity in losing his son but again Members really participated and being with him at that hour of need. Hon. Chief Whip, take heart and please welcome back. There other various that we cannot mention at this time, I am aware that my cousin, Hon. Madialo was also sick but he never wanted it to come out to Members but because he knew other problems that we had ahead of us, Hon. Madialo welcome and others that did not even tell us what they had during the long recess. Hon. Apiyo is also reminding me of another one that he also has. He will later tell us and we are with you Hon. Apiyo.

In a nutshell, Mr. Speaker, Sir; I wanted to appreciate our Members that in Here somebody may see that we are fighting but out there we unite and come

up as one family, congratulations and welcome back in the year 2016, thank you, Mr. Speaker, Sir; with those few remarks.

MOTION

Hon. Otieno: Mr. Speaker, Sir; I am back again. I think I will be boring this afternoon but it's only that the Standing Orders give me the mandate to be up again.

Mr. Speaker, you are aware since we started this Assembly we have been in a learning process and as we move along, we correct the mistakes that we did in the past. Right now, Mr. Speaker, allow me to Move a Motion:

THAT pursuant to Standing Order 125(1) this House Business Committee approves in addition to the Members specified under paragraph (a),(b), and (d).

Mr. Speaker you are aware that this House consists of other Members from other parties, that the Standing Orders allow them to be in this Committee by the rights of the parties they come from also as you are aware that issue of gender has to be addressed. In that case Mr. Speaker; the House Committee will consist of Standing Order no. 152, (1), (a) (b) & (d) with the following composition of Members:

Hon. John. Gare, Hon. James Munda, Hon. Andrew Omwende, Hon. Eric Ndonji, Hon. Joseph Awuor, Hon. Peter Muhula, Hon. Willis Ochieng, Hon. Lorna Adida, Hon. Margaret Oketch, Hon. Zilpa Omondi, Hon. Selah Okwako, Hon. Leonard Oriaro, Hon. Pamela Midumbi, Hon. Rosemary Ogutu also as a Member. I now call upon Hon. Ogutu to Second.

(Hon. Ogutu Seconded)

Hon. Speaker: Hon. Members, allow me to propose the question which is

that; pursuant to Standing Order No. 152 (1) this House Business Committee approves in addition to the Members specified under paragraph (a),(b), and (d), these are Hon. John. Gare, Hon. James Munda, Hon. Andrew Omwende, Hon. Eric Ndonji, Hon. Joseph Awuor, Hon. Peter Muhula, Hon. Willis Ochieng, Hon. Lorna Adida, Hon. Margaret Oketch, Hon. Zilpa Omondi, Hon. Selah Okwako, Hon. Leonard Oriaro, Hon. Pamela Midumbi, Hon. Rosemary Ogutu. I will put the question if there are no contributions, yes Hon. Zilpa.

Hon. Otieno: Thank you, Mr. Speaker, Sir; House Business Committee is a very important Committee because it plans the agendas of this House. However, I have been in this Committee for some time now and it's my feeling that the Members of this Committee including the ones that are coming in should take the business of this Committee very seriously.

The issue of Quorum has been a big problem in this Committee and time is hardly kept. Meetings are called and two hours later the Quorum cannot be realized. Mr. Speaker, we cannot go on like this because time is money and all of us have something to do and if we are Members of this Committee we must be serious and take the business seriously.

As this Committee was being constituted the issue of gender arouse and also minority party; we have so many Committees in this House, I hope that this time round the issue of gender representation will be considered in all Committees, it should not only be in the House Business Committee because there are other Committees in this House that do not meet the gender threshold and we should not be selective.

Yesterday some of us put up our hands and said that we are given Committees that cannot make the required 32Sittings in a month especially when you don't have plenary going on. I think those issues should also be taken to account when this New Year comes. We hope that this New Year will be a different one from the past, it has been said it is a learning process and we were in Kisumu to learn and I hope that what we learnt there will be applicable to everything we are going to do this year. Otherwise, I would like to thank the Members who have been appointed to this Committee and let's hope that we will take our work seriously and it applies to all of us.

Privilege goes with responsibility; if you are given a privilege to do something; take it seriously and do it to the best of your ability and that's what we cash on in the manner that we do things because as things go on so many people inconvenience others in this Assembly simply because people don't care, thank you, Mr. Speaker.

Hon Ngure: Mr. Speaker, thank you. I just want to know about the other Committees, when will they be executed? It's good that Hon.Zilpah Omondi has pointed out the lead that people were allocated and appointed in Committees that can break them into 1-2 at a go. It has been pending since the beginning of last Assembly, and from recess.

I would like to know if that has been now put in place, and when the new Members, or the Members that are joining various Committees will start working in those Committees, because if names came up last time, and there were some hitches, so the list had not been dated and concluded, and we were to come back

again. So I would like to know when that would be. Thank you, Mr. Speaker.

The Speaker: I want to believe you are seeking directions from the Chair on that Subject, Honourable?

Hon. Nguere: Yes.

The Speaker: Okay, thank you. The Speaker had made communication on that matter, before you arrived. However there is no harm in repeating. The provisions in our Standing Orders require that certain Committees that are reconstituted during the life of an Assembly will be done so with after 3 calendar Years, going by when we constituted our Committees, is the 10th of April. And they are not all Committees, Sectorial Committees will remain, they are called Standing Committees which means that they serve the life of the Assembly. Yes Hon. Oduya?

Hon. Ndonji: Thank you, Mr. Speaker, Sir, I want to add weight to what Hon. Zilpah has just said, but I want it to be done in all Committees. One thing is that, when giving in these positions, what is important for us is to make ahead with, is when we get committed what we have been given. One of the ways in which we can show the possibility, is attending these meetings and attending on time. The rules are very clear. That in case we lack a quorum within 30 minutes, then the issues of lacking quorum makes that meeting get postponed.

So I want to urge our Members that, let us take our jobs seriously, get to meetings on time, and also ensure that we are present at all meetings that are called for us to attend. I also want to enlighten the House that the rule itself indicates that if we miss 4 Committee meetings, then our positions are rendered vacant. So I want us to take it very seriously and make sure that

we do what we are brought here to do. Thank you, Mr. Speaker, Sir.

The Speaker: Yes, Hon. Gare!

Hon. Gare: Thank you, Mr. Speaker, I also stand to support that we adopt the names to be in the Committee of the House Business first, I also want to add that we want to request our Members that I know we are coming from Holidays, but I want to ask you to be more vibrant this time round, such that if you are nominated in a Committee by your party, and you feel that you are overburdened, or you are so busy, or you cannot add weight to that Committee, kindly tell your party to remove you from that list. Because we are putting people into Committees, not just because we want people to earn allowances, but also to add value into that Committee, and some people don't attend other Committees.

You have been told you have been lacking quorums many at times, but this could be because you were nominated there by your party, but then you are so busy that you cannot attend. You have the room to tell your party that nominated you to that Committee to remove you from that Committee if you are so busy.

We want to urge our Members, let us be most vibrant this time round, and of the issue of the members, some Members are saying, they don't have enough capacities, just as it had been said by our Honourable Speaker, by April, we are going to do that, and I know people will get enough Committees that they want. Otherwise we want to urge Members that this time round, let us be vibrant in our Committees, starting from House Business Committee, so that our Assembly can move on.

Remember this Assembly was ranked number two, but we don't want to

be in No. 2. We could be number two, but maintaining number two could be a problem! Because we are not vibrant in whatever we are doing. So let us even go further, and gets number 1, by us being in Committees in good time. We will be forced, if you don't attend to remove you from the Cabinet if you don't attend 4 times. That would not be very good. Otherwise thank you.

The Speaker: Hon. K'awuor!

Hon. Awuor: Thank you, Mr. Speaker, I am on my feet to support the adoption of this Report, in accord with the Members that have --- before us. Allow me to also add my voice, to the previous recaps of the Assembly. We really need to be vibrant, active, and Time conscious. One thing that I would want to ask this Honourable House is that the House Business Committee is just one Committee which is mandated to deal with issues of Business of the House.

The Membership of this House should also help the Committee, by giving the Committee, issues that need to be addressed. We have a laid down procedure, If a Member, who is not a Member of the Committee, has issues that this House needs to address, then that channel should be followed, through the Office of the Clerk, so that the Committee is not blamed to lack an Agenda to discuss. I support, and I rest my case. Thank You.

The Speaker: Hon. Walter Okello?

Hon. Okello: Thank you Mr. Speaker, for the opportunity, to add my voice, on this brief discussion, first I wish to congratulate the 14 Members, who this Afternoon will pass as Members of the House Business Committee. The suggestion I gave is that this is the Committee that is responsible for Business

that comes to the Assembly. If that is the case then this Committee then has a very heavy responsibility of ensuring that as we go into this very important part of the Assembly just about 14 or so months in the era of which, that whatever the expectation of the Siaya people is addressed adequately within this time.

I would then again call upon the Membership of this Committee to very urgently do what is in order, and should they look at what were the expectations of the people of Siaya County, from this Assembly, how far have we gone in achieving the same, and what would be the objectives, so that we are guided properly in terms setting Businesses.

It's been very unfortunate sometimes Members drive from far, leave their pending Businesses to come here only to be surprised that there is no Business. I want to believe that this Committee by constituting today will then help us do away with that apathy, by doing a proper evaluation of what we have done, and what we could do, and what we haven't been able to do.

With that Mr. Speaker, then I would kindly seek your indulgence on organizing for two other speakers including the way we mentioned it, that about Members full participation in Committees, we raised this yesterday, it was informally, and now that it has been agreed that those of us who feel underutilized in terms of Committees, we will then give our salary allowance so that even before everything, as early as even tomorrow, so that those of us who are underutilized in terms of resources, in terms of their ability to participate in the Committees are given that opportunity to contribute meaningfully going forward and cannot get underutilized. Thank You.

The Speaker: Let Hon Rosemary talk, Hon.Muhula has just arrived.

Hon. Ogutu: Thank you Mr. Speaker Sir, first, to congratulate the Membership of that Committee, I am a Member, and I just had a point of information from my colleague, Hon. Walter, that it is the Committees that generate the agendas to be discussed in the House Business not us as the House Business Committee please, thank you Mr. Speaker sir.

The Speaker: Yes, Hon. Muhula

Hon. Muhula: Mr. Speaker I just pre-heard the Hon. Member, I don't know whether she is staging an excuse that she will just relax in this Committee. However, I want to thank you and also congratulate you of course for the 1st Session of the 4th Year of this House, there are a lot of things that have been said here by the Honourable Members. We should not only look at the Constitution of the Committee, but the performance of this Committee.

It is indeed very regrettable, that the performance of the Committees of this House, almost the entire Committees have not been actually as per the expected by the people of Siaya. I want to agree that this possibly is contributed by the way we constituted the Committees when we were starting this House. This one has caused a problem in terms of the Reporting on the very good benefits that this Committee is contributing to this House.

The House Business Committee is one of the most Strongest Committees that are supposed to give directions to this House in terms of Business and performance. It is so regrettable that today, I Peter Muhula I do not want to congratulate the Committee of the House

of Business because the comments on the House of Business Committee has been wanting for all these days so we should not just say congratulations for the purpose that the House has stood to make these names be still in the House Business Committee.

It should be a challenge to this committee that what this house is expecting of them they must duly perform and we must see the improvement of this House being guided by the House Business Committee. It is a responsibility of all the Members to ensure that any time they are called for meetings they must be there to give directions towards the performance of this House.

Each and every Member has the responsibility of bringing an idea to this committee. This committee is almost above in terms of directions of this House. I would want to pray to this House that this time, the Constitution as per the guidance of one Mr. Kirui and Mr. Peter that we look at the relevance of our understanding in considerations to the respective committees that we are going to be in.

We have very good educationists in this House. They are not sitting in the Education Committee that means their knowledge is not being of help. We know of people who can be in the welfare but they are not there that means we are lacking that knowledge in those committees. If we can be able to attach the relevant understanding to committees then our performance and achievement will run at par.

(Applause)

It is not a question of just saying congratulations and we shout and clap that it has been constituted but do we really know the expectations of the House of that

committee? To that level I want to also possibly say congratulations but let the committee pull up their socks in terms of performance. I rest my case. Thank you.

Hon. Speaker: Hon. Members, I may have to if need be, refer you to the mandate of the House Business Committee. You will just consult your Standing Orders and discover that their roles are really tied with the functions of other committees.

Yes, Hon. Apiyo Apiyo.

Hon. Apiyo: Thank you, Mr. Speaker, Sir, first I want to support the MCA for West Alego, Hon. Muhula. The issue here is lack of quorum and keeping of time by Members and not only in the House Business Committee. I have experienced like twice that some Hon. Members from that committee could walk in and leave because of lack of quorum.

Once again I must take this opportunity to congratulate my committee members, the Committee on Roads. Not any single day have we experienced lack of quorum. We are kindly advised that it would be so sad for other Hon. Members to be coming from all that distance just to go back without conducting any business.

This is something serious, I can't come all the way from South Uyoma over 75kms and go back because the Assembly lacks quorum. My advice to everybody seated this afternoon is kindly let us change. We are getting to the last lap let us come a little early and do our Business as people expect of us. Thank you.

Hon. Speaker: Yes, Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Speaker, Sir, the one area I have observed and maybe I shall differ with the son to my aunt Hon. Muhula...

(Laughter)

By failing to congratulate the House Business Committee but I am in agreement with him. Aristotle once observed that the most difficult thing in life is knowledge of self but what usually precedes that is self-conquest.

Hon. Muhula has conquered the self by making one observation that he may not thank others by making it Cartesian. If there is one Member who let this committee down is Hon. Muhula as informed as he is by him being late always.

(Laughter)

But this time he will have a partner in me because I am a member of the committee. Most of the Members are vast with knowledge in various realms. What has been lacking in that committee and of course it shall be coming with me is that propensity to situational activities.

(Laughter)

Because everybody is a professional so it is not about lack of knowledge it is only situational activism and believe you me all Members this time you shall find it. I support.

Hon. Speaker: Will the Mover be called upon to reply?

Hon. Otieno: Thank you, Mr. Speaker, Sir, for this opportunity again. I want to say that I thank the Members for having vividly contributed to this Motion and as the mood stands the Hon. House will adopt the list. I therefore call for the adoption of the list.

(Question put and agreed to)

Hon. Otieno: On the supplementary Order Paper 0.3. The Siaya County Education Bursary Fund Bill 2016 (County Assembly Bill No. 2) First Reading

The Siaya County Early Childhood Education Bill 2016 (County Assembly Bill No. 1) First Reading

Hon. Speaker: The two Bills stand committed to the Committee on Education.

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members will you be upstanding for adjournment.

(Hon. Members rise)

Members of the CORD coalition the whip and the Majority Leader have a message for you. You will remain behind after the adjournment.

There being no other Business the House stands adjourned till tomorrow 10th February, 2016 same building at 9.00 a.m.

Hon. Members: 9.30 a.m.!

Hon. Speaker: We have not adopted those Standing Orders. We have realized the ringing of the bell and extension of time may take it to 9.30 a.m. So it is adjourned till tomorrow 10th February, 2016 same building at 9.00 a.m.

The House rose at 3.28 p.m.

WEDNESDAY, 10TH FEBRUARY, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

Hon. Deputy Speaker: Hon. Omwende!

Hon. Omwende: Mr. Speaker, I don't know whether it is in order to discuss this Motion. I don't think whether the Mover brought a Notice of Motion. When you were giving out the Order Papers, he was not aware that he should give a Notice of Motion first. I don't think it will be in Order to handle this Motion without reading a Notice of Motion.

Hon. Deputy Speaker: Hon. Omwende, were you present in the Morning session?

Hon. Omwende: Yes, I was present.

PRAYER

Hon. Deputy Speaker: Order, Members! Hon. Rosemary, Order! The Members wish to see me entering ...?

Hon. Members: Yes.

(Hon. Ogutu seconded)

(Hon. Omwende rose on a point of Order)

Hon. Deputy Speaker: We handled a similar Motion which was first laid in December, I think in the same date that with the Motion that we are handling right now. It was laid and a Notice of Motion was given, and because the House was going on recess; the House did not debate it.

So, today we have opportunity to debate on the same. We cannot give a Notice twice, it had been given, you can check with the Hansard records of the 1st of December, 2015.

accounts regulates the provision of that insurance facility and payment of stipends to Community Health Volunteers;

Hon. Deputy Speaker: Then you should not miss tomorrow's session.

MOTION

**NHIF AND PAYMENT OF STIPENDS TO THE
COMMUNITY HEALTH VOLUNTEER
WORKERS**

Hon. Deputy Speaker: Chairman or Vice Chair Committee on Health Services

Hon. Were: Mr. Speaker, Sir. Allow me to give a report on the Committee of Health Services on the payment of National Health Insurance Fund to the Community Health Workers and payment of stipends by the County Executive laid on the Table of this House on Tuesday, 1st Dec, 2015. Hon. Rose Okite to second.

Members, having moved the Motion; I now rise to propose the question.
(Question proposed)

Hon. Were: Thank you very much, Mr. Deputy Speaker, Sir; on behalf of members of Committee on Health Services inquiring on health provisions of the National Hospital Insurance Fund health cover and payment of stipends to Community health Volunteers by the County Government of Siaya, I am pleased to present this Report to this hon. House.

On 13th October, 2015, the County Assembly received a Statement from hon. Jared Abayo MCA (Member of County Assembly) West Gem Ward seeking to know what

the strategies in place to ensure such perimeters fast track how the Department of Health Services intend to cover the...the

Community health Volunteers have been struggling without having Insurance Health Cover and stipends.

Mr. Deputy Speaker, Sir; the Committee had a total of four meetings to engage the CEC Member Health Services and the CEC (County Executive Committee) Member Finance in an attempt to unravel the cause of the delayed payments some of the findings.

Our key finding was that that the Department of Finance and Department of Health were clearly shifting blames. Committees mandate as per Standing Orders No. 192 relates.

Acknowledgement;

I wish to acknowledge the Committees; quest of this House for having entrusted us with the institution of important duty of contributing to the efforts of improving the, provisions of Health Services in Siaya County.

The Committee thanks the entire membership for their dedication and commitment during the fact finding and deliberation that made this Report a reality. The Committee thanks the office of the Assembly for related facilitations and the Clerk Assistant for coordinating the facilitation and the investigations and report writing activities.

Mr. Deputy Speaker, Sir; it is now my ...on behalf of the Committee on Health Services to present this Report for immediate consideration and adoption by this House. The Committee prays that this hon. House adopts these recommendations proposed in this Report.

Page 5; Consideration, Adoption of the Report by the Committee;

Page 6, Submission for the Chief Officer of Health

ANNEX I

Mr. Deputy Speaker, Sir; the budget for the Health sector Financial Year 2015/2016 provides for an amount Kshs.51, 552, 000 with estimate of payment of stipends for the Community Health Volunteers. The Department later

22nd July, 2015 and 21st September, 2015; requested the funds for its operations.

Including an amount of Kshs.12, 888, 000 and Kshs.25, 776, 000 for the first and second quarter for its ...the part of the ...were not provided and just the on 22nd of October, 2015 then made a request to borrow funds to the tune of Kshs.25 million to be utilized to pay stipends for the first and second quarters for the six sub counties.

The payment vouchers were taken to the county Treasury on 27th October, 2015. ...Sub counties were returned to the Department for correction on 17th of November, 2015 for the sub counties payment vouchers had a...section in Finance waiting processing.

ANNEX II

Submission from the CECM Finance Siaya;

Mr. Deputy Speaker, Sir; in response about the submission by the Chief Officer Head; the Chief Officer Finance submitted to the Committee as follows:

County health Department made a request to borrow funds worth Kshs30 million, to enable pay the Community health Volunteers, however, they used a wrong template for the request and were advised to use the right template.

The correct from the Department of Health was submitted to our offices on 23rd November, 2015 and was approved on the 25th November, 2015. We wish to confirm that the payment has since been processed and it is at the last stage of payment.

Committee's observation;

- i) Community Health Volunteers offer very crucial services to the residents of Siaya County such that a wrong requisition template should not be reason to delay their payments. This was a clear show of inefficiency and

- ii) non commitment from the
- iii) The information from the Department of Health and Department of Finance were conflicting thus showing non-cooperation and teamwork from the two departments.

Committee's recommendations;

- i) The Community Health Workers' payment should be paid on time otherwise there should be a very substantive reason for the delay.
- ii) The Department of Health should be conversant with all the procedures of the County government to avoid inconveniencing workers.

All the documents pertained in correspondent between the two departments are attached. Thank you.

Hon. Deputy Speaker: Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Deputy Speaker, Sir; for the first time, what is clear is that could be that as we are deliberating on this matter, the Health workers are being paid according to this Report.

(Laughter)

I don't have any ground whether to support or to reject. Thank you.

Hon. Deputy Speaker: Hon. Ndonji!

Hon. Ndonji: Thank you, Mr. Deputy Speaker, Sir; I want to commend the Committee for the good job that they have done. But, I have an issue; in the Report it is said that the two departments Health and Finance were shifting blames.

I don't know the findings of the Committee on that matter. The back has to stop somewhere. And it is the Committee that is supposed to find out who is to blame for the delay of such payments. It

Department of Health.

has been observed very clearly that the Community Health Volunteers offer very crucial services to the residents of Siaya County.

And this has been abbreviated with the fact that the facilities that we have in Siaya County have inadequate staff and ill equipped to fight illnesses. And, the use of Community health Volunteers can also assist in sensitizing the community to ensure that we have prevention of illnesses.

I also wish to say that in the Report itself we should have asked the executive to ensure that they have the correct data of the community health volunteers that we have all over the County such that whenever such a thing is being done it is done in such a manner that no one misses anything. It has always been a trend in our County that payment is not done in a systematic manner not only for these workers but also when it comes to contractors. We should have a system in which papers are used and everything is done in time, there should be systems in which every payment is done but without that then even if we pass this Report it's not going to serve its purpose, thank you.

Deputy Speaker: Hon. Andiego!

Hon. Andiego: Thank you, Mr. Speaker Sir, let me also thank the Committee for the good work done. We have been having problems of payment in all sectors of this County and when we talk of community health workers we all know the role they play in this County. If I can give an example in my Ward, I have 3 Islands and there is an Island where only the community health worker can reach and again given that he is the only person they know as a health officer so every time any woman wants to give birth they knock on his door in which at times he has to

move with a boat so as to reach the women who are in labour so that he can get them

This health worker puts his life in many dangers for instance crossing the lake at night given that he can even be attack by a hippopotamus and to make it worse he is not covered and he is not even given the Kshs. 2000 which should be a motivator which again is very sad. Therefore we urge the Committee on health that as much as we are doing this we want your eyes to be put on these community workers and do whatever is necessary.

We are also tired of the blame game and I am wondering what we can do such that each and every docket is given its allocation of money to spend so that somebody else who is entitled to check can inspect to see how they are spending the monies. I agree that even in the National Government this is how it used to be done that each and every ministry was given their money to spend then the responsible body goes ahead to audit how the money was used.

This money being kept in one place is tiring and I am wondering why high somebody when there are ministries which know what they need, how much they need and when to spend it instead of the money accumulating at the treasury with the finance minister just sitting on it there and when you put a request for money they keep on tossing you here and there telling you that there is a problem with the system which we are tired of. If we take the case of contractors which again has been the song of Siaya County that the requisition was not properly or that the vouchers written are not correct.

I am requesting that if possible the finance docket should come up with a bill so that each and every docket is given its

to hospital which is outside the Island.

money to spend the way they see fit and if we continue like this then don't think this County will go anywhere because it was the wisdom of the government that we have ministry and each ministry be allocated money so that they can also procure what they want. It is my humble request to the Committee on Budget if it is possible should come up with a bill so that each and every ministry is given it allocation to make expenditure of the money easier, thank you.

Deputy Speaker: Hon. Abayo!

Hon. Abayo: Thank you, Mr.

Speaker, Sir. I did raise this issue before this House and as you can see from the Report that despite the critical role as Members have said that this team of people plaid and all of us can see the game being plaid. Therefore, I want to submit that this Committee on Health to me has not brought anything that will help sort this situation.

The buck stops with the CECM and on this Report the submission by the CECM on page 6 annex II the story given there is by the CEO not the CECM, I don't whether if this is the provision in response to their bad submission by the CEO while the head is CECM given that the letter we are talking about is from the CECM. We want to appreciate that the CEO is an accounting officer of the department but I think this is inconsistent.

I want again to submit that the Report given to us is 103% relaying on the documents that have been attached and every part of this Report is extracted word for word and from the letters of submission given the Committee didn't paraphrase anything they have been picked even where the CEO is talking about our

office the Committee is picking our office. Let us read between the lines and we will see.

The issue is have payments been made to this group? That is not been defined, a letter is given to us and it is dated 27th November, the Committee is telling us that the payment to the people in this category is at an advanced stage and that was on 27th November, 2015. Is that the position today? The Committee is quoting a verbatim from a Report given to them dated 27th November, 2015. As Hon. Oriaro did notice either they have been paid or not but what is the position of the Committee and I hope the Mover will be able to share that with us.

There is a letter to the clerk of the Assembly that have mention very clearly that there were budget provisions for this category yet this money has not been provided and there was an attempt to even borrow if the money was not forth coming.

They want to borrow the issue of a wrong template, what is our position? What is seriously missing as per the statement made, Hon. Members is there anything mentioned in this Report about payment on any NHIF? There is payment of stipend to the community health worker and there is no any mention of any AOR or NHRF and these are two critical areas that I did raise in my statement.

This Report direction does not take all the substance address and not explicit on the positions of things as it is today. This may not meet the threshold expected and I am the one who sort this particular statement, the Committee did not help in any way and I would say that we do not have much of a solution here. I reject this Report!

Deputy Speaker: Hon. Muhula!

Hon. Muhula: Thank you, Mr. Speaker, Sir, I think today was the day for the Health Committee and we are happy they are working. The terms of reference of this Report contradicts the spirit that was actually supposed to have been followed by this Report. It is clearly indicated again following the recent training that we had that the only person of hundis who is actually responsible to any information coming to the Committees and possibly any government commitment that is coming to the Committees is the CECM of the respective central Committees.

It is very regrettable that today we sit in this House debating a Report from the CO which is not the representation of what might have been discussed at the cabinet level. The issue of borrowing money can never be a responsibility of the CO; it can only be a deliberation of the cabinet which is shared by the Governor himself.

when I look at the report on page no. 6, report on Community Health Workers, it is almost the same thing; there is no any other single source the Committee took to effort of getting information. This is only but a duplication of the report that was coming from the CECM. There is an indication here that the health sector possible wanted to borrow Kshs. 30million, again in line with the request by the CO of health, which is clearly indicated on preference number.

What this money is supposed to be doing, it has never been indicated as per the title of this report which indicates the payment of NHIF and stipend to the community health volunteers. If I look at this thing critically as a Member of the Committee on Finance, there was an intention of paying a stipend and there was an intention of paying NHIF to the

Community health volunteers. The report is indicating here that no any intention of the Government to pay any NHIF to the community health worker because there is no any place or statement that is working to that.

The findings again of the Committee report is that the Government had never at any given moment planned to pay this stipend to the community health volunteers and that was the vote that actually necessitated the Committee to go out to look for this report. For me I would say, I would congratulate them for having worked very hard but unfortunately I have not seen the reason why they worked very hard.

If you can say you are working very hard and do all this literature and apparently the literature that is only duplicating an intention that has never been exercised when actually we know very well that this group we are talking about is playing a very key role in the health sector of this County.

Today we must make sure that we understand the value that the community health workers have actually added to this sector. If the community health workers were not here today, mothers could be dying, children would be dying and possibly even HIV would have possibly multiplied in this County because the way these people have worked in sensitizing. These 3 groups have brought a good fruit to the health issue of Siaya County.

What we have to say is, one thing is that we will continue to appreciate the work of the Committee but we ask them to go further and some substantive information that will help us deliberate and make resolution of this House how best we can handle the community health workers

in this County. I rest but I beg to reject the report. Thank you.

Hon. Temporary Speaker: Yes, Hon. Were!

Hon. Were: Yesterday I was able to engage the CECM and the information that I was being given was that NHIF processing was at the final stage. The other information that was also coming in was about this stipend. I request that we withdraw this Motion.

(Applause)

Hon. Temporary Speaker: The Mover has made a proposal that we withdraw this particular report from the Floor of the House.

Hon. Oriaro: Mr. Temporary Speaker, a precedent had been created here and there was no ---by any of the Speakers as to revoke it. In the Lands Committee, the Chair attempted to withdraw but the Hon. Speaker made a ruling that reports must be done away with lest the Assembly be put in an awkward situation. To me, that is a precedent set.

Hon. Temporary Speaker: Hon. Oriaro you are addressing the Hon. Speaker. Hon. Members, I want to mention that yes, there was a precedent or there have been precedents, withdrawal of a report was denied by the Chair and the Chair has the rights to take either on those directions. I wish also to inform this House that there have been situations and a number of them that reports have been withdrawn from this Floor on the request of the Mover or from any other Member who may also be feeling that it is worthy that a report be withdrawn. Before we handle any other issue I want to sustain that there was a proposal to withdraw and

that I want to ask Hon. Owii who had the intention to second to do that.

Hon. Owii: Thank you, very much Mr. Temporary Speaker, Sir. We wanted to read from the same script, you had already convinced us that the report was not addressing all the issues that you had actually put in the statement! I therefore want to take this opportunity to second Hon. Were on the withdrawal of the report that particular team to go back and work and give us something substantive. Thank you.

(Applause)

Hon. Temporary Speaker: Let me also remind Hon. Members that in as much as the roles have changed, I did make my submission as a Member of this House and as I sit here, I think there should be no reference to my earlier submission. Therefore Hon. Members, we want to propose the question that this report be withdrawn as has been moved by the Mover and seconded by Hon. Owii. This report be withdrawn and the Committee re-looks at this report.

Yes Hon. Walter!

Hon. Okello: Thank you, Mr. Temporary Speaker. I rise to support the withdrawal of the Motion particularly for two reasons. One, as Members have observed, the report fails to capture the gist of what was raised in the statement. This kind of report would not be complete without the calling of experience and the point of view from the people we are talking about, the Community Health Volunteers. It is my plea with the Committee that they get a little interaction with this particular lot so that we can also get the picture from their side.

Secondly, where I support the withdrawal is that as we said in the morning, there has been a tendency by certain officers to mismanage or to fail to discharge their duties. In this report we have been told about a whole template and several other things that appear to be gaps by officers failing to discharge their mandate. I would urge the Committee that as we withdraw this report, kindly let us also be looking at issues of repercussions. If someone is given a duty, he/she is supposed to discharge the duty professionally.

We can't just be having people messing up with their duties and let this pass. Finally, our Community Health Volunteers remain demoralized, they discharge their duties with low morale because of the stipend, it is very little amount. I urge the Committee to also kindly on a way of courtesy to look at that and recommend to this House on ways to be done to boost the morale of these people. Thank you.

Hon. Temporary Speaker: Yes, Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Temporary Speaker, Sir. I am with the mood of the House that the report be deferred but with one warning. As our Standing Orders put it, the discourse between the Committee and the Executive has to be such that the other side of the Executive is well represented objectively by the CECM. And a precedent had already been set even in the previous report that the team of Health has better grounds to go and engage the CECM and nobody else.

They come before us concussively and in generality. Matters ultra-virus the provision of the Standing Orders, we should be warned in advance such that as

we warn the Committee on Health, our deliberations in future should not have strength on the basis of communication from the COs and the directors. I support.

Hon. Temporary Speaker: Hon. Odinga!

Hon. Odinga: Thank you, Mr. Temporary Speaker. I think from the look of the things, if you look at the mood of the House, it is a general agreement that this document be withdrawn. I know you made a ruling, but there was an issue which Hon. Oriaro was raising. I think during that time of that report, it was based on a petition and as we know that petitions, there is time limit. So when the Speaker was making a ruling, he said that if we don't do it by today then we will be over and above the time limit.

Hon. Oriaro: It was an Omnibus Statement.

The Speaker: Hon Oriaro, I want to remind you that the Chair is very competent, and is well versed with the facts, and you don't need to interject. I was going to respond accordingly. Yes, Hon. Aneme, what do you have?

Hon. Aneme: Mr. Speaker, I also wanted to support the withdrawal of the Statement. If you look at the whole literature here, it was a document which had been doctored to win our thinking, that they are smart but they are not smart, but they have realized that they are not smart before us. Now that it is an agreement that they are going back to work on the document.

The Speaker: Hon. Aneme, can you justify that the document has been doctored? May you justify? Can you expound on that.

(Laughter)

Yes, Hon. Muhula! Hon. Aneme, get seated.

Hon. Muhula: Mr. Speaker, I don't really think the Honorable Member, has any authority to come out and say whether the Committee is mad or not mad in terms of the report. He should stand and state the reason why he is not accepting the report. I don't think it is in order to come out and say the Committee was not smart. Can the Honorable Member withdraw those words?

The Speaker: Hon. Aneme, you are out of order and that is why I did ask you to expound and you have not had any substance.

Hon. Aneme: Can I expand, Mr. Speaker, Sir?

The Speaker: You either give us substance, or withdraw that Statement completely.

Hon. Aneme: Okay. Let me withdraw that statement. Now that we have agreed that they are going back to work, I want them to come back and tell us exactly, how many months that this stipend had been paid for the Community Health workers in Siaya since they started the work, up to today, and how many months they are still waiting for. The document was not telling us that, and when they are coming back, they should remind the Committee that they should come with concrete report.

Even this money they are saying that those people were planning to borrow, we don't know where it was borrowed, and how much was received and how many were paid for this. So let the report indicate that very vividly, that such amount of money was borrowed, How many Members of Community Health Workers were paid, how many were not paid and for how many months are

remaining. Let that be contained in the report.

The Speaker: Yes, Hon. K'awuor?

Hon. Awuor: Mr. Speaker, I am in support of withdrawing the Statement; I just want to ask the Health team to give us time frame because this thing has been there for a very long time. So when they want to respond please, they should give us a time frame, how long is it going to take?

The Speaker: Hon. K'awuor, I want to assure the Honorable Members that the chair knows; the Chair is in charge and will give direction. Honorable Members, I therefore wish to put the question that this House approves the withdrawal of the report on the Committee of Health Services on the payment of NHIF and Stipends to Community Health Workers by the County Executive laid on the table of this House on Tuesday the 1st December 2015, and as has been requested by the mover. May as many as of that opinion say Aye, may as many as of the contrary opinion say Nay! The Ayes have it.

Honorable Members I wish to state that, the comparison of this particular situation, and the case that was here earlier on plot 899, I wish to state that that was a statement by Honorable Oriaro and was not a petition, we have not been bound by any timelines, but I want to mention that that was a ruling of the Chair, and the ruling of the chair will be sustained.

Also I wish to direct that the Committee considers all the issues raised and to fill in the gaps that are missing in this report, and that that report will be on the floor of this House on Wednesday the 17th, so we are giving you 1 week, Wednesday the 17th at 2.30, I want to ask the Clerk to fix that and let it be so.

As also been mentioned, we do agree that the buck stops with the CECM and I want to ask the Committee, that if you are going to engage the chief officer, the director of whoever they want to come with, let them come as a team with the CECM.

Unless there are very good reasons why the CECM should not be able to make it to attend and any other person that you want to bring on board, whether it's the Director of Health, we want to remind all Members that every submission that comes on the Sectorial Committees, the CECM in charge will take all the responsibilities. Next Order! Yes, Hon Asewe?

Hon. Asewe: The Chair has ruled, but the question is that, the Law gives CECM and the rest 7 days to be given summon. If we are given seven days, how will this one work?

The Speaker: I have mentioned that we want this report in this House after one week, and that would be at 2.30 p.m. We still have today. We are therefore asking the Committee that they should be able to handle that within one week. Even the seven days, notice can be done, it can be met. Even if they want to meet in the morning on that Wednesday, we can still have it passed. We want the report in this House after One Week. Next Order! Yes, Hon. K'owii!

MOTION

ADJOURNMENT

Hon. Owii: Mr. Speaker Sir, It appears that we have exhausted all issues that we were to address in the order paper today, and because of that reason, I wanted to move a motion for adjournment, that this House adjourns until tomorrow 2.30

p.m. I want to request Hon. Oriaro to stand and second.

Hon. Oriaro: Mr. Speaker Sir, I object because we are representatives, Members of the Public thought that we came from our house for Business. How will I be seen at Kadenge going back the day this early?

(Laughter)

The Speaker: Hon. Members, before I propose the question for adjournment, I wish just to mention to assure Hon.Owii that it is not moving Motions for adjournment that you are here for, you have made your very substantive

contributions to this floor, and I think Members, we have to accord Hon. K'owii all the respect by virtue of his office.

(Question put and agreed to)

The Speaker: There being no other business, this House adjourns until tomorrow Thursday, at 2.30 p.m.

The House rose at 3.04 p.m.

THURSDAY, 11TH FEBRUARY, 2016

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

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

PRAYER**NOTICE OF MOTION****NEWLY CONSTRUCTED HEALTH CENTERS**

Hon. Speaker: Yes, Chairman.

Hon. Apiyo: Thank you, Mr. Speaker, Sir, allow me to move a notice of the following Motion:

THAT, this House adopts the Report of the Joint Committee on Health services and Public works, Transport and Communication on Public Petition from residents of Central Alego Ward, Siaya County on the status of the newly constructed Uhembo, Kanyaboli and Osero Community Health Centers laid on the Table of the House on Tuesday, 1st December, 2015.

STATEMENT**TENTATIVE BUSINESS**

Hon. Speaker: Yes Hon. K'awuor.

Hon. Awuor: Thank you, Mr. Speaker, Sir, on behalf of the Majority Leader allow me to notify the Members of the Tentative Business starting next week on Tuesday, 16th February to Thursday, 18th February 2016.

Pursuant to Standing Orders 36(1) it is notified that the House Business Committee at their last meeting approved following tentative business to appear in the Order Paper for Tuesday, 16th February to Thursday, 18th February 2016.

Tuesday, 16th February, the Siaya County Education Bursary Fund Bill,

(County Assembly No. 2 of 2016) read by the Chairperson, Committee on Education, Youth Affairs, Gender and Social Services. Second and Third Reading.

Tuesday, 16th February, the Siaya County Pre-primary Education Bill (County Assembly no.1 of 2016) read by the Chairperson, Committee on Education, Youth Affairs, Gender and Social Services. Second and Third Reading.

Wednesday, 17th February, 2016 (Morning Sitting), Report on the Sectorial Committee on Governance and Administration on Benchmarking visit to Kwale County Assembly on Delineation, Establishment and Operationalization on the Village Units read by the Chairperson, Committee on Governance and Administration.

Wednesday, 17th February, 2016 (Afternoon Sitting), Report on the Sectorial Committee on Public Works, Roads, Transport And Communication on the analysis of the Draft Roads Sector Policy Document read by the Chairperson, Committee on Public Works, Roads, Transport and Communication.

Thursday, 18th February, 2016, Report on the Sectorial Committee on Education, Youth Affairs, Gender and Social Services on the status of implementation of ECDE teachers recruitment read by the Chairperson, Committee on Education, Youth Affairs, Gender and Social Services.

MOTION

REPORT OF THE JOINT COMMITTEE
ON HEALTH SERVICES AND PUBLIC WORKS,
TRANSPORT AND COMMUNICATION ON
PUBLIC PETITION FROM RESIDENTS OF
CENTRAL ALEGO

Hon. Apiyo: Thank you, Mr. Speaker, Sir, allow me to move a Motion: THAT, this House adopts the Report of the Joint Committee on Health services and Public works, Transport and Communication on Public Petition from residents of Central Alego Ward, Siaya County on the status of the newly constructed Uhembo, Kanyaboli and Osero Community Health Centers laid on the Table of the House on Tuesday, 1st December, 2015.

I want to request Hon. Were to second.

Hon. Were: I second.
(*Question proposed*)

Hon. Apiyo: Thank you, Mr. Speaker, Sir, may I take this opportunity to take the Hon. House through the Report which you assigned the two committees to present.

On behalf of the Joint Committee on Health services and Public works, Transport and Communication inquiring into the apprehensions raised in the Public Petition from the citizens of Central Alego Ward, Central Alego Location, Alego Usonga Sub County on the status of the newly constructed Uhembo, Kanyaboli and Osero Community Health Centers.

On the 20th July, 2015, the County Assembly received a Public Petition from the citizens of Central Alego Ward, Central Alego Location, Alego Usonga Sub County on the status of the newly constructed Uhembo, Kanyaboli and Osero

Community Health Centers. The specific prayers made in the petition are as follows:

Hon. Muhula: Point of information!

Hon. Speaker: Yes, Hon. Muhula.

Hon. Muhula: Thank you, Mr. Speaker, Sir, I have a concern. Due to the fact that this is a petition from a member of the County Government I believe it is in order that for such petitions we are given the Report in advance, we comprehend and then we contribute constructively when we come for debate. With due respect to the Hon. Chair of Committee on Roads, when a petition like this is brought and he reads and Members have not looked at it I think for it to be duly effected.

Hon. Speaker: Thank you. May I remind you Hon. Members, the motion reads:

THAT, this House adopts the Report of the Joint Committee on Health services and Public works, Transport and Communication on Public Petition from residents of Central Alego Ward, Siaya County on the status of the newly constructed Uhembo, Kanyaboli and Osero Community Health Centers, the stressing is, laid on the Table of the House on Tuesday, 1st December, 2015.

In other words this document was in possession of this House from 1st December, 2015 to date. My understanding is that any time a document is laid, it is circulated to Members. The person who laid this Report may I get if from you whether or not this Report has been circulated.

Hon. Apiyo: Thank you, Mr. Speaker, Sir, for giving me good direction.

Hon. Speaker: Was it circulated?

Hon. Apiyo: Yes!

Hon. Members: No!

Hon. Speaker: Order! Let me confirm from the clerks.

(Hon. Speaker consults Clerks at the Table)

Hon. Speaker: The person who did this was Hon. Oriaro. Hon. Oriaro was this document circulated?

Hon. Oriaro: Maybe they are confusing the date when the Hon. Speaker received the petition with the actual laying of the Report. Even if you go by the facts attached here you will find that some of the facts they had gathered comes much later. It's like they had laid the Report even before gathering facts.

Hon. Muhula: Out of what Hon. Oriaro is saying even the signature is reading 10th February, 2016.

(Laughter)

Hon Speaker: Alright, Members; laying of a Report is Submitting the same to the House. Hon. Chair, you just said it was laid because it doesn't ask you for more clarification. Was the Petition brought on the first of December or the Report which you are reading was laid on the first of December?

Hon. Apiyo: Mr. Speaker, Sir; the Report was laid on the 1st December, 2015. I don't know why the House can't remember.

(Loud Consultations)

Hon. Muhula: Hon. Speaker can you take the Chair to when the date was signed on this Report. Hon Chair can you look at when you signed this Report, is December there? Is it in Order that the Chair keeps on misleading this House?

Hon. Speaker: Hon. Members then we are saying our Motion is faulty,

that means we will have to reconstruct our Motion and then if that is the case we can allow the Member to proceed to Move the Motion but we don't put it to vote. You can request that you need time to go through it then we put it to vote when you have gone through it. How does it feel Mr. Chair if you will presenting a Report which looks like Members have gone through, will you read page by page and word by word? Mr. Chairman, we are back to you; if Member request that they have not gone through the Report would you then request that they be given humble time to do so or you want to proceed?

Hon. Apiyo: Thank you, Mr. Speaker, Sir; if I go by the mood of the House; allow me to give Hon. Members humble time up to Tuesday in the afternoon. According to the Notice Paper, on Tuesday Afternoon I can take the Members through the Motion.

Hon. Speaker: I want to meet you and the Core Chair plus the secretariat of the Joint Committee so that we are sure when exactly this Report was laid so that we also have a common understanding because it would be bad if it went on record that the Chair insist it was laid and the documentation before us is that it was not laid then. Now that means we don't have business and Tuesday is a very busy day you can see we have two Bills, I hope we will finish within 3hours and listen to your Report.

Hon. Apiyo: Mr. Speaker, Sir; I have a concern if you allow Members to seek the leave and we sit with the Report on Tuesday, I would request your Chair if you would allow this. I think it shouldn't go official that we discuss the matter of voter registration and I.D. registration. I will seek the audience of this Hon. House, if we have a strong input in the registration

of I.D. and voter registration which is forth coming on Monday, thank you.

Hon. Speaker: Kindly Mr. Chair, are you seeking leave so that we discuss the matter on registration of voters.

(Laughter)

Hon. Apiyo: No, I was saying that according to our Order Paper, it seems we don't have business.

Hon. Speaker: Today?

Hon. Apiyo: Yes, so I was requesting if you may allow us to discuss an important issue of voter and I.D. registration.

Hon. Muhula: Hon. Speaker!

Hon. Speaker: Yes, Hon. Muhula.

Hon. Muhula:

Hon. Speaker, under Standing Orders no. 31, Adjournment on definite matter of urgent County importance

(1) Any Member may at any time rise in his or her place and seek leave to move the adjournment of the House for the purpose of deliberating a definite matter of urgent County importance.

(2) A Member who wishes to seek leave to move the adjournment of the House shall, at least two hours before the commencement of the sitting, hand to the Speaker a written notification of the matter but the Speaker shall refuse to allow the claim, unless the Speaker is satisfied that the matter is definite, urgent and of County importance and may properly be raised on a Motion for adjournment of the House.

(3) If the Speaker is satisfied in terms of paragraph (2) and not less than ten other Members rise in their places in support, the Speaker shall nominate a time on the same day at which such Motion may be moved.

(4) No Member speaking on a matter under this Standing Order shall speak

for more than five minutes without the leave of the House, except that the Mover may speak for ten minutes.

I think the Member is seeking leave of the House that we introduce a Motion and debate to discuss on the registration of both I.D. and voter registration. If you will allow that I would ask the same Chair to Second.

Hon. Gare: Point of Order!

Hon. Speaker: Yes, Hon. Gare.

Hon. Gare: I don't think it will be in Order for us to seek leave even before we dispense on what is---. We have not even said what we are going to do with this, we are still not sure of what we are doing with what the Chairman was bringing up and the Chair is not even aware whether this Report was circulated or Tabled. Can we dispense on this first is when now we can come up with whatever the Member is saying. You have not even direction on what we do, Mr. Speaker.

Hon. Muhula: Hon. Speaker.

Hon. Speaker: Yes, Hon. Muhula.

Hon. Muhula: Hon. Gare had put his mind somewhere because when I follow well what the Hon. Chair said is that he will allow Hon. Members to take some time to go through this Report then you said that you will have some time with the core Chairs and the Clerks so that you can determine---

Hon. Speaker: It is true we have not taken a decision and the Hon Chief Whip is right. Hon. Members, the Hon. Chair of the Joint Committee is requesting that we allow the Committee time and also Members to go through that Report so that we debate it on Tuesday. I just want to know if there is any objection from the Floor; if there is I put it to question and if there is no objections then we take it that the House is in agreement that we that we

debate this Report on Tuesday after Members go through it. There being no other business I would like you to be up standing for adjournment.

Hon. Andiego: Mr. Speaker, Sir; I have a concern.

Hon. Speaker: Yes.

Hon. Andiego: Maybe it is not in the Order Paper today; I raised it sometime in October last year an issue about the payment of contractors. I haven't got any Report up to today and our contractors are really suffering in this County.

Hon. Speaker: It was committed to which Committee?

Hon. Apiyo: It was committed to the Finance Committee.

Hon. Speaker: Chair to Finance Committee, yes!

Hon. Odinga: It is true it was committed to our Committee but we have

Hon. Speaker: Can you give us a tentative date when you will present the Report?

Hon. Odinga: The only challenge we are having is that we wanted to meet the CEC but the whole of last week he was not available. This week he has gone for requisition but we have also written to him a letter that we are meeting him on Tuesday so I believe our Committee because we have a number of Reports we wish to bring to the House.

Hon. Speaker: So by Thursday, do you think you will be done with that Report?

Hon. Andiego: Mr. Speaker, Sir, I remember you directing the Committee to give a Report in two weeks' time and now it is over 3months. What has happened?

Hon. Speaker: Mr. Chair, that is a burning concern, can we have it responded to Thursday without fail.

Hon. Odinga: Yes, I think by Thursday we will be done but also what happened is that this was---

Hon. Speaker: But Hon. Chair, just take your seat; even when it was overtaken by the issue of supplementary but you were meeting the same CECM what stopped you from asking him about the issues of payments? You should have asked him so that you get answers for the same but anyway I think we can do it on Thursday. Can you get us a Report on Thursday?

Hon. Odinga: It is possible but I remember very well when Hon. Andiego brought that Statement but we should not only concentrate on South Sakwa we should bring a general Report of all these other Wards, this is why it is taking time because we are not only concentrating on South Sakwa.

Hon. Speaker: Fine, we are expecting a comprehensive Report on Thursday as to why contractors have not been paid in all the 30Wards. Members I would want us to be up standing for adjournment because the issue of voter registration I don't think it is a matter of County importance.

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members, there being no other business this House adjourns until next Tuesday 16th February, 2016 at 2.30 p.m.

The House rose at 2.56 p.m.

TUESDAY, 16TH FEBRUARY, 2016

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

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

PRAYER**COMMUNICATION FROM THE CHAIR****MEETING PLAN KENYA**

Hon. Speaker: Hon. Members, we have been invited for a meeting by Plan Kenya on Friday and I make this communication to you and the letter reads:-

“The invitation of Siaya County Assembly Members to share about the ending of the Child Marriage Project PLAN International is a humanitarian child support development organization and child sponsorship is the basis of the organization. The organization runs projects within the Siaya County in Education, Integrated Health and Child protection. It is in view of this, that the organization is partnering with the County Children’s Office wishes to extend an invitation through your office to the County Assembly Members to give an overview of the Child ending Marriage Project which contributes to zero tolerance for the practice of child in marriage to ensure at least nine years quality education for all girls in a safe and supportive environment.

The Project, further, has an elaborate advocacy component which requires a concerted effort during implementation at the community, County and National levels in which you are an integral part of. We believe that political

good will and support given by leaders like you is important in galvanizing and rallying people around this pertinent issue of the girl child.

The advocacy component will raise awareness on the rights of children, protection and the value education places on human life, review laws and policies and protect children from marriage while addressing policy gaps identified.

It is therefore important to buy in to support the program. The meeting will take place on the 19th of February, 2016 from 9.00 a.m. until 2.00 p.m. at the Siaya County Club, there will be transport reimbursement. And therefore, we require you to mobilize the County Assembly Members to attend this session.”

My work was to mobilize you to attend this session. The reimbursement figures you will get in your SMS communications.

Secondly; Hon. Members we made pledge that when we opened this session we would want to fast track the Bills that are within the Committees and therefore I direct that the Committees fast track the following Bills and any other matters pending before the Committees: The Siaya County Ward Development Fund Bill, The Siaya County Public Participation Bill, The Siaya County Rating Bill, The Siaya County Learning and Quality Teaching Bill, The Siaya County Public Nuisance Bill, The Siaya County Carriage of Food Bill, The Siaya County Child Care Bill, The Siaya County Persons living with

Disability Bill, The Siaya County Disaster Management Bill, The Siaya County Public Works Bill, The Siaya County Advertising Bill, The Siaya County Alcoholics Drink Control Bill. That should be done so that we don't have backlog, Next Order!

BILL

THE SIAYA EDUCATION FUNDS
BILL, 2016 (COUNTY ASSEMBLY BILL NO.
2 OF 2016)

Hon. Atieno: I beg to Move that the Siaya County Education Fund Bill 2016 be read a Second time.

Mr. Speaker, Sir, I want to thank you for this opportunity to contribute on the deliberation of the Siaya County Bursary Fund Bill 2016.

It is my honor and pleasure to present to this House the Report on the Committee on Education, Youth Affairs, Gender and Social Services on the Siaya County Education Bursary Fund Bill, 2016.

Article 185 (1) of the Constitution of Kenya, 2010 stipulates that the legislative authority of a County is vested in, and exercised by the County Assembly; Article 185 (2) further provides that a County Assembly may make any laws that are necessary for or incidental to the effective performance of the functions and exercise of the powers of the County Government under the Fourth Schedule.

Section 9 of part of the Fourth Schedule to the Constitution of Kenya, 2010 provides for an array of functions including provision of pre-primary education, village polytechnics, home craft centres and childcare facilities among others. It is in this regard that County Government are expected to make

legislations to enable them to effectively discharge the envisaged functions.

The County Government of Siaya has developed the Siaya County Education Bursary Fund Bill, 2016 to primarily provide a legal framework for the establishment of the County Education Bursary Fund, to provide for the management, governance and the administration of the fund.

Hon. Oriaro: Point of Order!

Hon. Speaker: Yes, Hon. Oriaro, what's your Point of Order?

Hon. Oriaro: I ask to seek a directive from the Chair in view on the matter at hand. It is public that very early in the morning a Petition was raised by the public in regards to the process of the matter at hand. Would it be in order to continue handling the matter yet issues raised in that Petition are obviously against the spirit of it.

Hon. Speaker: I haven't seen the Petition, is there a Petition?

Hon. Oriaro: As we speak, that petition is on the in tray of the Clerk, just in good faith because I just bumped into it.

Hon. Speaker: What was it about?

Hon. Oriaro: The matter questions the process especially on Public participation both on this Bill and the one of early childhood because my fear was that if we go ahead and the public has got other avenues, we discuss this away from the spirit of that Petition they can jeopardize our activities by other avenues enshrined in the law.

Hon. Speaker: I will give direction on that, allow the Mover to continue as I ...

Hon. Atieno: Thank you, Mr. Speaker, Sir, I shall proceed.

Hon. Odinga: Mr. Speaker, Sir, Point of Order.

Hon. Speaker: Yes, Hon. Odinga?

Hon. Odinga: Mr. Speaker, Sir, I stand on a procedural Point of Order. That the Mover started by requesting that this Bill be read a Second time and if you see whatever she is reading; its saying the Siaya Education Fund Bill, 2016 and it further goes ahead and says amendments from the Committee of Education. My worry is, are we going straight to the Committee of the Whole House or she will read this Report and then we will revert to the Committee of the Whole House.

Hon. Speaker: Hon. Odinga, the Hon. Mover is in Order to proceed, actually what she is doing is proposing the amendments which will be dealt with in the Committee of the Whole House and that is what happens at the Second Reading of a Bill. You give a Report on what you have captured from the public and the observation of the Committee and when you go now to the Committee of the Whole House; you now present them for adoption or otherwise. That is in order. Proceed, Hon. Zilpa.

The Committee on Education, Youth Affairs, Gender and Social Services is one of the Sectoral Committees established under Standing Order No. 192 read together with the Second schedule of the County Assembly Standing Order.

The Siaya County Education Bursary Fund Bill, 2016 went through its first reading on Tuesday, 9th February 2016 and was committed to the Committee on Education, Youth Affairs, Gender and Social Services. The Committee organized several stakeholders meetings to look deeply into the Bill. The committee met at Namsagali Hotel Siaya on Thursday, 11th February with the legal experts, CEC, CO-Education, the Director responsible for Education and Vocational Training

together with his counterpart in sports Culture and Social Services to analyze the Bill and have a common understanding before subjecting the Bill to Public participation.

County Assembly Standing Order 121 (1) clearly spells out that a Bill having been read a First Time shall stand committed to the relevant Sectoral Committee without question put. Standing Order 121 (3) read together with Article 118 (1)(b) of the Constitution of Kenya, 2010 further elucidates that the Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its Report to the County Assembly. In this regard, the Committee took the Bill to the Public on Friday 12th February in Bondo and Ugunja Sub Counties to provide a forum for the public to air their views on the Bill before submitting the final Report in the Assembly.

Allow me to point out from the onset that Part II of the Bill which highlights the Establishment of the County Education Bursary Fund came out eminently as contentious issue at all levels i.e. during the Committees engagement with the legal expert team and the Executive at Namsagali Hotel as well as during the public participation exercise both in Bondo and Ugunja Sub Counties.

Section 4; sub section (1) of the Bill clearly spells out that there shall be an Established Fund to be known as Siaya County Education Bursary Fund without qualifying the exact source of the Fund i.e. whether the Fund will be a percentage of the total allocation of the county kitty or a percentage of the total allocation in the Education Department, Sub section (3) and

(4) further apportions this inexplicable fund into two; 85% of the fund to be disbursed equally to Wards whereas 15% of the Fund to be disbursed to the Wards based on other parameters.

This Section is a grey which must be handled cautiously because it is not in conformity with the present arrangement of bursary disbursement. In this connection, the Committee resolved that Sub section (3) and (4) be expunged entirely from the Bill. In the meantime, wide consultation should be initiated between the Executive, the County Assembly and legal experts for the purpose of amending the Bill to respond to the present realities.

Hon. Awino: I would now wish to Move:

THAT, we look at the Siaya County Education Bursary Bill that was given to the Members this House when we opened the Assembly so that we go through it and I make proposals on the areas that we felt that it can be amended so Members I request you if you have this get your copy of this together with the Report that I am reading we shall go through it so that we see areas where the committee proposed for amendment.

Hon. Members we shall look at:

PART I –PRELIMINARY

Short title

1. This Act may be cited as Siaya County Education Bursary Fund Act, 2016.

Interpretation

2. In this Act unless the context otherwise requires

Act 17 of 2012

The committee recommends that Act 17 of 2012 because it is hanging there not specifically referring to something else

but we know that it refers to the County Government Act 17 of 2012. We are proposing that we just expunge Act 17 of 2012 and then we go straight away to the interpretation.

Section 2 of the Bill is further amended in the interpretation of the word 'committee' so if you look at your original draft Bill; you have the word committee means the Ward Education Bursary Committee established under Section 6. The committee amends that to read 'under Section 7'.

PART II – THE EDUCATION BURSARY FUND

Section 4: Establishment of the Fund

Sub section 1 which says there is established a fund to be known as Bungoma County Education Fund. *Bungoma* should be deleted and replaced with *Siaya*.

Section 5: Fund Expenditure

Section 5(1)(a) 'providing education grants or bursaries to eligible students enrolled in secondary schools, universities, colleges and special primary schools' is amended to read 'providing education grants or bursaries to eligible students enrolled in secondary schools, special primary schools, universities, colleges and polytechnics'.

5(1)(b) we didn't make any changes there.

Sub section 2 should remain the money of the funds shall be disbursed through the Wards.

The committee further proposed that sub section (3) and (4) is entirely expunged from the Bill. You will read them later but when you read them there is the issue of 85% to be shared equally

among the Wards and then 15% to be distributed as per needs.

Hon. Members you remember that in the budget year 2015/2016 the MCA's allocated bursaries from the Ward Development Fund and each Member decided together with his Ward members how much money should have been put there. Some members put in Kshs. 1 million, Kshs. 1.5 million, Kshs. 2 million and others went ahead and put Kshs. 3 million so if you subject it to part 4, sub section (3) and (4) it will not be fair when those sections are applied to the bursary of 2015/2016. So we proposed that they be expunged.

Section 6: Establishment and Administration of the Fund.

Section 6 of the Bill is amended in Sub – section (3) by deleting the word 'finance' it reads 'the County Education for Finance shall designate the Chief Officer as the person responsible for administering the and inserting fund and whose duties shall be to..' and insert the word 'education'

Section 7: Ward Education Bursary Committee

Section 7 of the Bill is enhanced in Sub-section (2) by adding the word 'taking cognizance of two thirds-gender rule' before the sentence.

Sub-section 2(a) of the Bill is amended by deleting the Clause entirely and inserting the sentence 'a chairperson elected by the Committee members and forwarded to the Executive Member for official appointment'

Sub-section 2(e) is amended by replacing the word 'one person' with 'two persons' at the beginning of the sentence.

Sub-section 2(f) of the Bill is enhanced by inserting the sentence 'not of

the same gender' in between the words 'persons' and 'nominated'.

Hon. Members I want to say that I have a problem there because we discussed this, I think the amendment should have come under 2(e) and the amendment should be '2 persons not of the same gender representing NGO's and Community Based Organizations involved in education matters in the Ward nominated by a joint forum of Non-Governmental Organizations and Community Based Organizations in the Ward'. That is where those two should come this 2(f) may not apply I think there was a clerical error.

Sub-section 2(i) of the Bill is enhanced by adding the sentence 'Ward Administrator of the Ward who shall be an *ex officio* member'

Sub-section 3(d) of the Bill is enhanced by adding the sentence 'for at least 3 years' after the word – Ward

Sub-section 7 of the Bill is amended by deleting the Clause entirely and inserting the new Clause 'The term of the Committee shall expire when a new Committee is constituted after the general election'. The initial read that 'The term of the Committee shall expire upon the final announcement of the results of the election of the Governor and Members of the County Assembly during the general election but the members shall remain in office until the new Committee is constituted'

Section 8: Functions of the Committee

Section 8 Sub-section 1 of the Bill is enhanced by adding 1(e) which reads 'preparing and submitting to the County Executive Member Annual report'

PART III- EDUCATION GRANT AND BURSARY AWARDS

Section 12: Eligibility for education grant or bursary

Sub-section 12(a) of the Bill is enhanced by adding ‘or comes from the Ward’ after the word – years.

It should read that this applicant has a parent/guardian who has been a resident in the Ward. You may not have been originally born in that Ward but you are now residing there. So you can apply for the bursary if you have been residing in the Ward for at least 3 years.

Sub-section 12(b) of the Bill is further enhanced by adding the word ‘polytechnics’ after the word – college.

Hon. Minami: Point of order!

Hon. Speaker: Yes Hon. Booker.

Hon. Minami: I require your guidance on the kind of amendments that the Hon. Member is reading. Could it be in order that she reads only the intended amendments plus the original because I believe that after this we are going to have committee of the whole House where we are going now to debate extensively on the proposed amendments against whatever was there?

Do we need to read the proposed amendment plus whatever was there originally?

Hon. Speaker: There is no harm in any but in the interest of time I think it is safer for you to just say they are your proposed amendments so that we save on time.

Hon. Awino: Thank you, Mr. Speaker, Sir.

Section 13: Conditions for education grant, bursary

Section 13 Sub-section 13(a) of the Bill is amended by deleting the word ‘an’ and inserting the word ‘a vulnerable’

Sub-section 13(c) of the Bill is further enhanced by inserting the word ‘vulnerable’ before the word – person.

Section 14: Application for education grant, bursary

Section 14 Sub-section 2 of the Bill is enhanced by adding Sub-section 2(d) to read – ‘schools’

Sub-section (3) of the Bill is entirely expunged from the Bill

Sub-section 3(b) of the Bill is amended by deleting the word ‘31st January’ and inserting the word ‘end of February’

Section 17: Verification of information

Section 17 of the Bill is amended by inserting the word ‘in case of doubt’ at the end of the sentence.

Section 18: Disbursement

Sub-section 5(b) of the Bill is amended by deleting the word ‘February’ and inserting the word ‘March’.

Section 21: Publication of the list of beneficiaries

Sub-section (1) of the Bill is enhanced by adding sub-section 1(e) to read – ‘County Government website’

Sub-section 1(f) is amended by deleting the sentence ‘the Executive member may determine’ and inserting the sentence ‘may be convenient’

I now beg to Move. I request Hon. Rosemary to support. Thank you.

Hon. Awino: I would now wish to Move:

THAT, we look at the Siaya County Education Bursary Bill that was given to the Members this House when we opened the Assembly so that we go through it and I make proposals on the areas that we felt that it can be amended so Members I request you if you have this get your copy of this together with the Report

that I am reading we shall go through it so that we see areas where the committee proposed for amendment.

Hon. Members we shall look at:

PART I –PRELIMINARY

Short title

1. This Act may be cited as Siaya County Education Bursary Fund Act, 2016.

Interpretation

2. In this Act unless the context otherwise requires

Act 17 of 2012

The committee recommends that Act 17 of 2012 because it is hanging there not specifically referring to something else but we know that it refers to the County Government Act 17 of 2012. We are proposing that we just expunge Act 17 of 2012 and then we go straight away to the interpretation.

Section 2 of the Bill is further amended in the interpretation of the word ‘committee’ so if you look at your original draft Bill, you have the word committee means the Ward Education Bursary Committee established under Section 6. The committee amends that to read ‘under Section 7’.

PART II – THE EDUCATION BURSARY FUND

Section 4: Establishment of the Fund

Sub section 1 which says there is established a fund to be known as Bungoma County Education Fund. *Bungoma* should be deleted and replaced with *Siaya*.

Section 5: Fund Expenditure

Section 5(1)(a) ‘providing education grants or bursaries to eligible students enrolled in secondary schools,

universities, colleges and special primary schools’ is amended to read ‘providing education grants or bursaries to eligible students enrolled in secondary schools, special primary schools, universities, colleges and polytechnics’.

5(1)(b) we didn’t make any changes there.

Sub section 2 should remain the money of the funds shall be disbursed through the Wards.

The committee further proposed that sub section (3) and (4) is entirely expunged from the Bill. You will read them later but when you read them there is the issue of 85% to be shared equally among the Wards and then 15% to be distributed as per needs.

Hon. Members you remember that in the budget year 2015/2016 the MCA’s allocated bursaries from the Ward Development Fund and each Member decided together with his Ward members how much money should have been put there. Some members put in Kshs. 1 million, Kshs. 1.5 million, Kshs. 2 million and others went ahead and put Kshs. 3 million so if you subject it to part 4, sub section (3) and (4) it will not be fair when those sections are applied to the bursary of 2015/2016. So we proposed that they be expunged.

Section 6: Establishment and Administration of the Fund.

Section 6 of the Bill is amended in Sub – section (3) by deleting the word ‘finance’ it reads ‘the County Education for Finance shall designate the Chief Officer as the person responsible for administering the and inserting fund and whose duties shall be to..’ and insert the word ‘education’

Section 7: Ward Education Bursary Committee

Section 7 of the Bill is enhanced in Sub-section (2) by adding the word ‘taking cognizance of two thirds-gender rule’ before the sentence.

Sub-section 2(a) of the Bill is amended by deleting the Clause entirely and inserting the sentence ‘a chairperson elected by the Committee members and forwarded to the Executive Member for official appointment’

Sub-section 2(e) is amended by replacing the word ‘one person’ with ‘two persons’ at the beginning of the sentence.

Sub-section 2(f) of the Bill is enhanced by inserting the sentence ‘not of the same gender’ in between the words ‘persons’ and ‘nominated’.

Hon. Members I want to say that I have a problem there because we discussed this, I think the amendment should have come under 2(e) and the amendment should be ‘2 persons not of the same gender representing NGO’s and Community Based Organizations involved in education matters in the Ward nominated by a joint forum of Non-Governmental Organizations and Community Based Organizations in the Ward’. That is where those two should come this 2(f) may not apply I think there was a clerical error.

Sub-section 2(i) of the Bill is enhanced by adding the sentence ‘Ward Administrator of the Ward who shall be an *ex officio* member’

Sub-section 3(d) of the Bill is enhanced by adding the sentence ‘for at least 3 years’ after the word – Ward

Sub-section 7 of the Bill is amended by deleting the Clause entirely and inserting the new Clause ‘The term of the Committee shall expire when a new Committee is constituted after the general election’. The initial read that ‘The term of

the Committee shall expire upon the final announcement of the results of the election of the Governor and Members of the County Assembly during the general election but the members shall remain in office until the new Committee is constituted’

Section 8: Functions of the Committee

Section 8 Sub-section 1 of the Bill is enhanced by adding 1(e) which reads ‘preparing and submitting to the County Executive Member Annual report’

PART III- EDUCATION GRANT AND BURSARY AWARDS

Section 12: Eligibility for education grant or bursary

Sub-section 12(a) of the Bill is enhanced by adding ‘or comes from the Ward’ after the word – years.

It should read that this applicant has a parent/guardian who has been a resident in the Ward. You may not have been originally born in that Ward but you are now residing there. So you can apply for the bursary if you have been residing in the Ward for at least 3 years.

Sub-section 12(b) of the Bill is further enhanced by adding the word ‘polytechnics’ after the word – college.

Hon. Minami: Point of order!

Hon. Speaker: Yes Hon. Booker.

Hon. Minami: I require your guidance on the kind of amendments that the Hon. Member is reading. Could it be in order that she reads only the intended amendments plus the original because I believe that after this we are going to have committee of the whole House where we are going now to debate extensively on the proposed amendments against whatever was there?

Do we need to read the proposed amendment plus whatever was there originally?

Hon. Speaker: There is no harm in any but in the interest of time I think it is safer for you to just say they are your proposed amendments so that we save on time.

Hon. Awino: Thank you, Mr. Speaker, Sir.

Section 13: Conditions for education grant, bursary

Section 13 Sub-section 13(a) of the Bill is amended by deleting the word ‘an’ and inserting the word ‘a vulnerable’

Sub-section 13(c) of the Bill is further enhanced by inserting the word ‘vulnerable’ before the word – person.

Section 14: Application for education grant, bursary

Section 14 Sub-section 2 of the Bill is enhanced by adding Sub-section 2(d) to read – ‘schools’

Sub-section (3) of the Bill is entirely expunged from the Bill

Sub-section 3(b) of the Bill is amended by deleting the word ‘31st January’ and inserting the word ‘end of February’

Section 17: Verification of information

Section 17 of the Bill is amended by inserting the word ‘in case of doubt’ at the end of the sentence.

Section 18: Disbursement

Sub-section 5(b) of the Bill is amended by deleting the word ‘February’ and inserting the word ‘March’.

Section 21: Publication of the list of beneficiaries

Sub-section (1) of the Bill is enhanced by adding sub-section 1(e) to read – ‘County Government website’

Sub-section 1(f) is amended by deleting the sentence ‘the Executive member may determine’ and inserting the sentence ‘may be convenient’

I now beg to Move. I request Hon. Rosemary to support. Thank you.

Hon. Speaker: Hon. Members, in the Speaker’s Gallery the CEC (County Executive Committee) Member in charge of Education and the Director in charge of Youth Affairs. Let us welcome them in our way.

(Applause)

And, very importantly; in the Speaker’s Gallery we also have Hon. Gor Sungu, an MCA (Member of County Assembly) in Kisumu, I think the former Kisumu Town east. He went for two terms. Feel welcomed.

(Applause)

Thank you, very much. During the introduction of the Bill; when the Mover just moved, a Member rose to inform the House that there is already a Petition which is questioning the procedure around Public Participation. I can confirm to you now, that I have the Petition which was received today 16th, of February 2016. Time is not indicated.

It reads: -

PETITION

“PETITION UNDER ARTICLE 199 AND 37 OF THE CONSTITUTION, AND STANDING ORDERS NO.196

Requiring fresh public participation on Bursary Fund Bill, 2016 and, Early Childhood Education, 2016

We, the undersigned leaders of Religious Organizations, Non-Governmental Organizations, Professional Groups, Community Based Organizations, Women Groups, Youth Groups and

ordinary citizens; we draw the attention of the House to the following;

That exercising our rights under Article 196 of the Constitution Kenya 2010, which states as follows:

- a) The Assembly shall conduct its Business in an open manner and all its sittings and those of its committee's in public;
- b) Facilitate public participation and be involvement of the people in legislative under the business of its committee;
- c) Cognizant of the fact that we represent the views, concerns and aspirations of residents six constituencies in Siaya County namely;- Bondo, Ugunja., Rarieda, Gem Alego Usonga and Ugenya; noting that the purported public participation that was held in Ugunja and Bondo on the 12th of February, 2016 was not done in good faith.

Since the notice was not sufficient, therefore, turnout was very low. And, worse still, the Bills were not made available contrary to Article 35 of Kenyan Constitution 2010 and most of the participants did not interact with the documents sufficiently and the Assembly also failed to share the two documents on their website for public to gain access.

Taking note that Article 174 of the Constitution states that— The objectives of the devolution of devolution of County Governments in Kenya is to include the desires, to promote an accountable exercise of power, to give power to the self governance to the people, and to

enhance participation of the people into the exercise of the powers of the state and in making decision affecting them.

Considering that under the Constitution 2010, Governance is participatory in design, public participation in governance goes beyond participation in electing members to represent offices.

Aware that meaningful County development can only take place with meaningful stakeholder consultation and sufficient public education, the Constitution accords community voices and influence which with recognition in the following ways:

- a) Article 2 provides for direct exercise for sovereign powers of a citizen;
- b) Article 10 recognize public participation in national values and principle;
- c) Article 35; establishes the rights for every citizen to access information;
- d) Article 196 creates platforms for public participation in County Assembly.

We, therefore, wish to address you as follows; -

Devolution was the most important achievement of Kenyan dream and through this system; Kenya hopes to recognize the power paradigm in dislocating power form the state to vesting the same in the people themselves.

Conclusions and recommendations;

- i) The strange and most disturbing reality is that in the

past residents of Siaya County have felt left out and betrayed not only by the Government but shockingly also with their elected leaders. Further, the refusal by the Assembly to enact public participation laws and regulations to streamline public participation is also disturbing.

- ii) The residents are dissatisfied that the leaders have not put their focus on solutions to the issue affecting public participation in the County. While we do not expect any particular favors; we expect that your office familiarity with the issues being realized or raised by different stakeholders in Siaya, with the view of making our County a better place. That is why we have to appeal to you directly.

It is therefore, our petition and prayer:

THAT;

- i) The County Assembly leadership should urgently provide leadership and recall both Bursary Fund Bill and Early

Childhood Education Bill for proper and effective participation as for Article 118, 119 of the Kenyan Constitution, 2010.

ii) In this respect, we are kindly asking for a meeting with you for the purposes of sharing with you our objectives and how best we can work together for the betterment of Siaya County and further initiate fresh public participation process on the said Bill.

iii) Further to this, there is need to put in place inclusive participatory process that takes care of citizens including people living with various forms of disabilities within the County

iv) Provide leadership for the process of the policy and legal guidelines to be broadened and improve the participation of local population. In this regard, more time and mechanisms will be provided to public scrutiny of the public documents and wide consultations.

v) You need to provide leadership of... publications, consultations and which is bottom up and not the other way round.

vi) Finally, we request you to have a look at the attendance list and establish how many people attended the so called public participation that was held 12th February 2016, in both Ugunja and Bondo.”

The people who signed this...I don't know whether these are the people or the petitioners...

However, allow me to loud the growing conscience amongst our people that they need to be involved in the legislative work. That is their right. Also allow me to exonerate this Assembly on whether or not they engaged in public participation as required by the law.

First of all, I want to read to you the provisions in the law, and our Standing Orders, Standing Order No. 125 on publication—

“No Bill shall be introduced unless shall Bill together with the memorandum referred to in under Standing Order No. 122

(Memorandum of Objects and Reasons) has been published in the Kenyan gazette *(as a Bill to be originated in the County Assembly)*, and unless in the case of a County Revenue Fund Bill, Appropriation Bill or Supplementary Appropriation Bill, a period of seven days and in the case of any other Bill a period of (14) days, beginning in each case from the day of such publications or such shorter period as the County Assembly may resolve with respect to the Bill has ended.”

In other words, had the Bills matured as at the time we took them to the public? The answer is; if you look at the Education Bursary Fund Bill, it was published in the Kenyan Gazette on the 12th of January 2016. We introduced it on the 9th of February.

A matter in Kenyan Gazette is a matter for anybody in Nairobi, Siaya and even in...it is already in the public domain. I further want to bring to your attention, on Standing Order No. 121 which says that;-

“A Bill having been read a first time shall stand committed to the relevant Sectoral Committee without question put...” and then 3 says;

“Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its report to the County Assembly.”

It doesn't say how many fora but it says; the Committee shall hold public participation.

The Constitution of Kenya under Article 196 (1) says;-

“On public Participation and County Assembly Powers, privileges And Immunities. That the County Assembly shall—

- a) conduct its meetings in a public manner and all its sittings and those of committees, in public;
- b) facilitate public participation and involvement in the legislative and business of the Assembly and its committees.”

It doesn't say how many sittings or how many fora. What did this Assembly do right? On 10th a local daily, the Standard, page 11, the County Assembly put a Notice in the Dailies and it reads;-

“In the matter of consideration by the County Assembly of Siaya, of the Siaya County Education Bursary Fund Bill and the Siaya County Early Childhood Education Bill, 2016, Article 196, 1 (b) of the Constitution of Kenya, 2010, provides that the County Assembly shall provide facilitation of the public participation and involvement in the legislative and other

business of the Assembly and its committees.

Standing Order No. 121 states that;-

“Sectoral Committee to which the Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the committee makes its report to the Assembly.”

It further says; The Siaya County Education Bursary Bill and the Siaya Early Childhood Education Bill underwent first reading on the 9th of February 2016. The Bills having been read the first time stood committed to relevant committees for consideration, thereafter submission of the report to the County Assembly within 20 calendar days.

Pursuant to Article 196 and Standing Order No. 123, the respective committees invite relevant stakeholders and interested members of the public to submit any representations or views on the 12th of February, on the venues and time represented here below:

- a) Bondo County Hall and;
- b) Ugunja Sub County Hall.

Copies of the Bill can be obtained from the Office of the Clerk or can be downloaded from the Office of the Clerk Siaya County Building or can be emailed to the clerk@siayasassembly.or.ke to be received or before 11th at 5.00p.m.”

In my discussions with the CEC in charge of Education, I have been informed that the pre-application stages involved consultations with the people and signatures and photos were taken and therefore; there was consultation.

On our part as the Assembly; we provided the forum, and these are the fora we provided—

i) We gave this document to the people elected by the same Siaya people to represent them

ii) We had a discussion with the media and it was captured when invited the public to give their views

ii) We provided the two venues when some people just provide one

ii) We put this document in our website and directed people where to get this document which is the Office of the Clerk and, I am informed there is no memorandum to date which has come to us and we provided the venues for discussions.

I therefore, I’m of the opinion that the matter before hand, when our people, our sons and daughters, the children of Siaya people, are back at home because of school fees and this hon. Assembly had passed an appropriation for such monies to be spent; it defeats logic to extend this period to an unknown date for public participation when avenues and fora had been created.

(Applause)

We welcome your views; if you read the Petition, it talks more of the way forward. I will personally, through the Office of the Clerk, invite the petitioners and take them through the process we have followed and ask because my conscience is clear; there is no law that we have broken. That is why it is not incited.

I also want to extend an olive branch to them that even if you have views that will not fundamentally change the memoranda and objectives of the Bill; then the Committee can still consider them.

The same petitioners can consider seeing His Excellency the Governor. Because, once a Bill has been passed by the Assembly it goes to the His Excellency the Governor who will also give his views;

if he finds them worthy, they will be part of the issues that we will consider when the Bill is recommitted to the Committee.

Lastly and very importantly, as petitioners, as the people of Siaya, you can still exercise your right to petition in this Assembly to amend that law in case it gets to enactment within six months so that it captures your views.

In future, I plead with you that if you send such petition; send with recommendations where you want changed. I would have committed that to the Committee. But, just blaming a process, no memorandum, nothing...honestly...

(Applause)

That is a spirit you need to keep up. Keep on engaging us. We appreciate you as part and parcel of us. Having said that hon. Members allow me now to propose the question.

(Question proposed)

Hon. Members, if there is no contribution, I will now ask the Mover to reply.

Yes, Hon. Adera.

Hon. Adera: Thank you, Mr. Speaker. First and foremost, allow me to congratulate you on your historic ruling. This is actually the first time that the petition was brought when the session is on. In most cases, you will find that; if the petition is brought when the assembly is in session, such petition will be dismissed and not be considered. But, you have a kind heart, and considered the same.

The law actually does not specify how many groups or people should be attending public participation forums; it's open that as long as there is a public gathering, whether there are two, three or one hundred. I know we have over three hundred thousand residents of this County

and all of them cannot come at the same time. So we are within our mandate to discuss the Bill.

Mr. Speaker, Sir, I was trying to analyze this Bill and I have realized that it is a replica of the Ward Bursary Fund Bill that we passed here in 2013. At that particular time the Executive was so hostile that they didn't want to see any Bill coming from a Member of this Assembly. The County Assembly of Bungoma borrowed this Bill from me and they enacted it into law and you can see very clearly that our Executive has also gone and borrowed the same from Bungoma; little did they know that the Bungoma people also borrowed it from us.

So if at all the Executive had agreed to harmoniously work with us, we would have enacted ours long time ago, in fact in 2013. Sometimes it's good to share, we may spend little rather than going in circles then at the end of it we realize that we have walked no distance.

I don't have any issues with the Bill but I want to congratulate the Committee on Education and the CEC for seeing it wise to come up with this Bill because it will really help our students. I know of several students who have been sent home for school fees and with enactment of this Bill, I believe the CEC and the Finance department of this County Government will move with speed to see that monies have been disbursed to the various schools who shall be the beneficiaries. I know the applicants had sent in their requests by December last year and the bursary committees have looked at the application papers.

What is failing in this Bill is the enactment date. I don't know whether we shall go back to the old system or we are just using this Bill for the purposes of

requisitioning money from the treasury. It's not clear when this Bill should come into force. I want to strongly believe that this Bill will be used for acquiring money from Nairobi, and if not so, then I think the CEC should be clear on the enactment date.

I also had a look at section 20 of this Bill:-

(1) A person who is aggrieved by the decision of the Committee may appeal to its Executive Member.

(2) The Executive Member may uphold the decision of the Committee, or make further recommendations to the Committee within fourteen days after receiving an appeal under sub-section (1).

Mr. Speaker, Sir, it is not clear who may appeal. And again, I don't think it augurs well to give the Executive Member powers to maybe rethink or change a decision that about 8 or 7 people have made. In my original Bill, though this has been deleted, I created a second tier of the committee at the County level so that if there is an appeal from the ground then one can appeal to the County bursary committee and I believe if that one was created here, it would have given Members a fair hearing rather than have one individual. And again, it will be quite cumbersome for one individual to listen to several cases from other sub counties.

With those few remarks I beg to support this bill but it would have been better if whatever I have contributed were captured, thank you.

Hon. Oriaro: Thank you, Mr. Speaker, Sir. I was generally hesitant to rise as always to occupy space on the Floor because I genuinely knew that this one was totally a replica--- In fact, the brain child

of this Bill is none other than our very own Hon. Deputy Speaker.

As I support this, it would be prudent in future that we have proactive Standing Orders because the originality of the Bills as it stands today, obviously will see any ideal Bill brought by Members being shut down because the Executive is quiet. Even though we are told to make laws, the origin of those laws or proposals is exclusively in the hands of the Executive. That's why we are about two years late.

We wouldn't have been put in this quagmire. To that extent, it would be also be good to advice the Governor, being the originator of the CECMs, to think big and openly as to have those who shall help him up. To that extent, maybe I would a nod to the current CECM for Education.

But on issues for instance raised by the originator of the Bill that was brought down, these matters never appeared on the amendments as brought to us by the Committee; and I know the next stage of the Committee of the Whole House will be turned chaotic because Members will come up with others. So it would have been my suggestion that as we support this Bill, that if possible miracles can happen from your Chair, Mr. Speaker, Sir, we can defer the current session so that we handle the matter very objectively early in the morning when we are very much fresh. This will provide Members with enough time to think of possible amendments. It shall make the process so much smooth and swift. Otherwise, I support.

Hon. Andiego: Thank you, Mr. Speaker, Sir. I am also on my feet to support the Bill and also to congratulate you for the ruling that you made this evening. It would appear as one of the best and can only be compared to one delivered

sometime back by former National Assembly Speaker Hon. Kenneth Otiato Marende.

We really needed this Bill passed earlier than today. I am not seeing any big difference between what we have today and what we passed in 2013. If we had been keen and ready to work together as partners, we would have been two years ahead of even Bungoma that we borrowed from. I would tell the Executive that a good thing is good even if done by an enemy. If your enemy is doing a good thing, just look at it keenly and pick it from there because maybe it is for your own development.

Indeed, the Petition as was read, touches on some critical issues and I will also appeal that at times we should provide enough time for things to be done in a better way. We always have very limited time. Things are brought to this Assembly in a rush and at times we don't get the best. The rush that we always have makes us not to reach every corner of the County during public participation. As much as we follow the law to the letter, because of time, we may not get the best. I am requesting the Executive to have a plan of doing things so that they give us good time to look into these things and have the best.

When I was going through the Bill, there were some parts that were not mentioned by the Committee and I would just request that we check on them. When you go section two of part 10 which reads;

10. The remuneration of the Members of the Committee shall be as determined by the County Treasury.

The treasury may decide not to give anything! I would propose that their remuneration be captured in the Bill so that they know what they are working for.

There is also part 3 (4) which says that an applicant shall not be charged any fee for accessing the forms prescribed under this Bill. Mr. Speaker, Sir, we know that the County Government provides us with 10 copies of the form for each Ward but very many people out there are in dire need of the bursaries. This forces us to ask them to go and do photocopies of the application form.

Those are the two areas I would like this House to deliberate on and find solutions that won't take us to the court of law. Thank you.

Hon. Minami: Thank you, Mr. Speaker, Sir, for the opportunity to contribute on this Bill. I want to thank the Committee for the work they have managed to do given the timeline they were working on; I think its work that needs to be applauded.

(Applause)

I also want to mention something on the implementation of such Bills and it's a good thing that the Executive is represented here and they are eagerly waiting for us to pass these Bills. This is the same Executive that sometimes defies the recommendations of this House. Right now I'm seeing them here waiting for us to pass this Bill which I believe this House is going to pass.

In the past, and this is an issue that I have raised with the concerned officers in that department; some monies that were disbursed to some students have never reached the beneficiaries. An example is in East Gem Ward. We have students who were given bursaries in Nyamira Girls High School but have not received the bursaries up to now. We have students from East Gem learning at Ramba High

School and they have not received bursaries up to now yet this is something that was to take place in the previous year. It is an issue that I have raised with the officers concerned and I can see them here.

It is very unfair for the County Government to release funds to a school in one cheque with the names of the students attached. Those people who pick the cheques have gone ahead and even changed the names from the list of beneficiaries. A very good example is Nyamira Girls High School. That school should be investigated. They receive a cheque but the end beneficiaries are their own people and not the intended people that originated from our Wards. That is one thing that I require the Executive to keenly follow up on; especially the schools that I have mentioned because seven students from my Ward learning in those schools have not received their last year's bursaries up to now.

I will request that this House supports the amendments that have been brought here so that the implementation of this Bill starts in earnest. We don't want anybody outside there to blame this House for sitting on the monies of school going children. One thing that Hon. Andiego and the Deputy Speaker have raised is the implementation time. It is very key that we know the time when the implementation will start because we know that our people are waiting for this thing to start and as an Assembly we should consider that.

In the Bill, as the Mover was moving, it was quite clear that it caters mainly for the current situation. What about moving forward? Are we going to use the same Bill or are we going to have amendments in the next financial year? The budget making process is ongoing and we should speed up on a few areas so that

come the next financial year, we are not stuck in the mud again. As a House let us think about it; let's think of the future. Thank you.

Hon. Okello: Thank you, Mr. Speaker, Sir, for the opportunity to echo what other Hon. Members have said. Mr. Speaker, Sir, allow me to first of all join Members in thanking you for the ruling you've made this afternoon. I attended the public participation exercise held in Bondo and I want to very confidently report to this House that if you looked at the kind of enthusiasm the public engaged us with and then you could tell that the people of Siaya County have come to a certain level of maturity.

They have come to a realization that they need to be involved in the entire processes concerning the County. The Bondo County Hall where we were was full to capacity. Over 500 people were in attendance and what surprised me most is that they sat there from 10:00a.m to almost 6:00p.m. So I don't think anybody in their right mind would say that was not public participation.

(Applause)

You can't compare that with what happens at the National Parliament. They pass Bills every day; serious Bills with very serious ramifications yet I have never seen them in Rarieda; I have never seen them come Siaya or anywhere else. All the time they hold their public participation forums at the K.I.C.C. We congratulate the Assembly for making it possible for members of the public to access the two Bills on the Assembly website and for also providing the public with a forum to air their views.

(Applause)

Having said that, this Bill is progressive in a number of aspects: Of particular interest to me is the part that we are able to accommodate the youth by including very clearly in the laws that the youth in youth polytechnics will be legally entitled to benefit from this bursary scheme. The reason I say this is because if you do a random sample of our youth, for example those in the *boda boda* industry in Siaya, you will find that a number of them are unskilled. Rarely do you find them skilled in electrical works and all those sorts of skills.

Mr. Speaker, Sir, that is one of the devolved functions that the County Government is supposed to look at and execute. I want to appeal to Members that kindly let us also prioritize the youth who need tertiary training; I know that previously, Members have been keen in supporting students in secondary schools and public universities. Now that we have this Bill, let's take note of the youth of this County who need to be equipped with skills as we go forward.

The Bill is not entirely conclusive. I'm aware that a policy document will have to be developed for the enactment of this Bill. Just like Hon. Andiego stated, there are certain elements that should be checked; remuneration is one of them. I'm sure that that aspect can be captured in a policy. The Bill could not contain every nitty- gritty but I believe that the policy document that will be developed by the Executive will be able to capture this.

I also wanted to say that none of these laws is cast on stone; even the American Constitution which I believe is probably the most progressive document on earth got where it is today after several amendments. So even if you make this Bill today and then it's subjected to another

amendment tomorrow, that won't invalidate this Bill an inch.

Finally, I want to add my voice to the fact that the biggest concern has been the element of implementation; and I'm thankful that the CEC in charge of this department is at the Speaker's Gallery and so she will be able to carry this message clearly. She was also part of the public participation forum at Bondo and she heard it for herself that the people of Siaya are almost losing confidence in the County Government of Siaya in terms of their willingness to implement the very good laws and policies that we come up with. With those few comments, I urge Members to support. Thank you.

Hon. Oketch: Thank you, Mr. Speaker, Sir. I would really like to thank the Education Committee for the good job they have done. As a representative of the people with disability, I would like to say with all confidence that in Bondo we had representatives of persons with disability and they really participated well and most of the issues they raised have been well captured by the Education Committee. We want disability matters to be well handled; mostly when it comes to the play grounds of the ECDEs. Our playgrounds should be accessible to children with disabilities. Thank you.

Hon. Ogutu: Thank you, Mr. Speaker, Sir. A lot has been said and I wouldn't wish to go back to them. First and foremost, I have to congratulate you, Mr. Speaker, Sir, for your wisdom in handling the Petition. As my colleague, Hon. Walter has said; we were in Bondo and even took pictures. The hall was fully occupied and the engagement was quite lively and interactive. People disagreed to agree. We worked on this Bill from Friday to Sunday. We never even enjoyed our

Valentine day. The earlier the implementation of this Bill the better for us as representatives. I urge Members to support. Thank you.

Hon. Apiyo: Thank you, Mr. Speaker, Sir. I support this Bill and I would say that the Committee did a wonderful job. I was in Bondo Sub County when the Committee carried out the public participation exercise. Indeed the hall was full and persons with disability were also represented. I attended not as a Hon. Member, but as a member of the public. Mr. Speaker, Sir, you could have given us a chance to respond to the Petition.

(Applause)

The key issues here are the amendments. I remember very well the amendments that were proposed by the public; most of them, if not all, have been captured. I support. Thank you.

Hon. Odinga: Thank you once again, Mr. Speaker, Sir. The Committee has done a good job within a very short time. The Bill was committed to the House a month or three weeks ago but the Committee has really tried to ensure that all legal procedures are followed for the enactment of the Bill into an Act.

However, there are some areas, just as my colleagues have said, that we need to address when we go for the Committee of the Whole House. When Hon. Booker was on his feet, I thought he would request that Members be given time to look at these amendments and then maybe if possible, tomorrow morning we wrap up this very important Bill. Every morning, a child is crying somewhere for not going to school due to lack of school fees.

Colleagues, this is a very important Bill that we need to support with

the urgency it deserves so that our children can go to school. So, I just wanted to request that we be granted time to go look at these proposed amendments and then maybe other Members can also float in their individual proposals.

There is one area I wanted to cite; In Section 4 part 2 of the Bill, they are talking of 85% and 15% and then they are saying other parameters. When you look at the National Bill on C.R.A, they went down and even specified what these parameters are---

Hon. Okello: Point of information, Mr. Speaker, Sir!

Hon. Speaker: Yes, Hon. Walter.

Hon. Okello: Mr. Speaker, Sir, I wish to inform the Hon. Member that the part he is referring to, in our report we recommended that it be expunged from the Bill.

Hon Odinga: I didn't get that and I even have that report! There is a proposal from the Committee that this part be expunged; there could be other contributions, but before we think of expunging this part, what are the explicit things we can say? If it is allocation, how much will go to these people? This should come out clearly in the Bill; that these are the parameters we will be using to disburse these funds.

The parameters can either be in terms of population or poverty index level. It should come out clearly. So long as it is revenue allocation that is going to help or assist, there must be parameters which we look into before we disburse the funds.

So, Mr. Speaker, Sir, this is why I was requesting that if you allow us, we could go and look into this and also add our proposals. I support and I urge that it is very urgent that we pass this Bill.

Hon. Speaker: Hon. Odinga, the Member for Ukwala, has talked about the need for more time so that Members can look at the Bill and give their proposed amendments; I want to read to you your very own Standing Orders.

Standing Order Number 126 (2):- No amendment shall be moved to any part of a Bill by any Member, other than the Member in charge of the Bill, unless written notification of the amendment shall have been given to the Clerk twenty-four hours before the commencement of the sitting at which that part of the Bill is considered in Committee.

Hon. Members, this Bill didn't come to us this morning. If the public who did not have the advantage of having a copy each could bring their proposed amendments on Friday last week, how about us who had copies and had the time? We should have done it much earlier. Thank God that we still have an avenue. If you still think that we need to amend this Bill, then you have the avenue of proposing an amendment at the right time but remember that those amendments on the Floor have their own dangers because if sometimes we allow them and they are against the Constitution, we cannot enforce them.

As one of us said, some of these things can come within the regulations. For example, amendments that have financial implications; we cannot do as legislatures; it has to seek the guidelines of the CEC in charge of Finance.

So, Hon. Members, I listened here to the Deputy Speaker propose a real amendment but whether it had followed the right channels at the right time, those are things you can consider in the Committee of the Whole House. But in terms of delaying the passage of this,

remember the voice of this House has been that we are doing a disservice to the children back at home. Delaying this will be a disservice to the children of this great county. May we proceed?

Hon. Ngure: Mr. Speaker, Sir, thank you. I rushed from Nairobi this morning to attend today's Sitting since you were to make a ruling on a Petition. I congratulate myself for having driven fast enough to be Here to listen to your ruling. Nothing pleases me more than such good verdicts. Some of us who have lived long enough to have listened to other Speakers, though not sitting in the same Chambers as the Speaker, know that you match them and in fact you are better than some of them.

(Applause)

So thank you for that ruling. It is something that I really enjoyed listening to. I urge Members to support the Bill.

Hon. Osuri: Thank you so much, Mr. Speaker, Sir. I want to say that the passage of this Bill is long overdue given the expectations of the public. Over the few past months, the Members of this Hon. House have been overwhelmed by the demand for bursaries. The issuance of such monies was only hindered because of lack of a legislative instrument like a Bill.

Mr. Speaker, Sir, if you happen to have been in Bondo, the kind enthusiasm that the members of the public had was overwhelming. This is an indication that they are really longing for the passage of this Bill and particularly they were very keen on the composition of the bursary committee. The recommendations that the Committee put here captured their views so well. I propose that at this juncture, the Mover be called to reply, thank you.

Hon. Speaker: There being no objection, the Mover can reply.

Hon. Awino: Thank you, Mr. Speaker, Sir. Hon. Members of the County Assembly, I just want to register my appreciation for your contribution and the unanimous support that we go ahead and take this Bill to the other stages so that we can pass it.

When I started reading this report, I got a rude shock that immediately I started; there was a point of order; so I had to sit down. Then came a Petition. I want to tell the Hon. Members of this House that Members of the Education Committee have really done their best because we had to do everything possible so that our children go to school. These are our children and we don't want them to waste any single minute at home. Any single minute wasted makes them disadvantaged. The teacher will have taught and they will not be ready to catch up and I thank Members because they understand this.

We thank you for your contribution and suggestions and we also know that we didn't cover every area we would have wished to cover but we realize that after 6 months, this Bill, if passed into law, can be brought back to this same Assembly and can be amended. We know areas that can still be amended but we wanted to ensure that we move pretty fast so that we save the children from being disadvantaged and wasting their time at home.

As we move ahead, we urge the County Government to move with speed and ensure that our children get their Cheque in the coming week so that they don't delay at home anymore. With that, I say thank you very much.

Hon. Speaker: Hon. Members, I therefore put the question:

(Question put and agreed to)

(The Siaya County Education Bursary Fund Bill, 2016 read for the second time)

Hon. Speaker: Hon. Members, you are aware that our Standing Orders require that we don't go through two parts of the Bill at the same time unless with the leave of the House. I therefore want it to go on record that if there is no any objection, then we proceed to the next stage. Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Hon. Speaker left the Chair]

IN THE COMMITTEE

[The Chairman (Hon. Kadera) took the Chair]

The Siaya county education bursary fund bill, 2016

(County Assembly Bill No. 2 of 2016)

The Chairman (Hon. Kadera):

Order, Hon. Members! We are now in the Committee of the Whole House to consider The Siaya County Education Bursary Fund Bill, 2016. I now propose that Clauses 1 and 2 be part of the Bill.

(Question that Clauses 1 and 2 be part of the Bill put and agreed to)

The Chairman (Hon. Kadera):

Yes, Hon. Zilpa.

Hon. Awino: Yes, Mr. Chairman. The Education Committee proposes that

Clauses 3 and 4 be expunged from this Bill.

(Question proposed)

Hon. Oriaro: Mr. Chairman, just for guidance; the language in the Plenary was crystal clear. It's like what we are about to do is just a mechanical practice. Why can't we just put it to pass with the amendments already brought to our attention?

The Chairman (Hon. Kadera): Hon. Oriaro, you are out of order. Take your seat. It is their duty to go Clause by Clause. It has to pass stage by stage. You can wait for us outside, but we have to go through the Bill stage by stage.

(Question that Clauses 3 and 4 be expunged from the Bill put and agreed to)

The Chairman (Hon. Kadera): Clauses 6 to 7. Hon. Zilpa, do you have an amendment?

Hon. Awino: Yes, thank you Chairman. Clause 6(3) should read: - 'The County Executive Member for Education' not Finance; replace the word finance with education. I hope that is coming out. Thank you.

(Question proposed)

The Chairman (Hon. Kadera): Hon. Members, I propose the question that Clause 6 be amended as by the report of the Committee.

(Question that Clause 6 be amended by inserting 'Education' instead of 'Finance' put and agreed to)

Hon. Awino: Thank you, Mr. Chairman. Sub section 2 of Clause 7 is enhanced by adding the word- 'taking

cognizance of two thirds gender rule' before the sentence.

(Hon. Andiego stood up in his place)

The Chairman (Hon. Kadera): Hon. Andiego, kindly take your seat. We don't want a scenario whereby at the end of the day we are accused of passing the Bill without quorum. You know the importance of this Bill to the people of this County and if there is any Member walking out, I kindly appeal to you that we dispense off with this Bill then do any other business later. Proceed, Hon. Zilpa.

Hon. Awino: Clause 7(2a) of the Bill is amended by deleting the Clause entirely and inserting the sentence; a chairperson elected by Committee Members and forwarded to the Executive Members for an official appointment.

Then we have sub section (2)(e) of the Bill: - It should be amended by deleting the word; one person.

Sub section (2)(h) of the Bill is enhanced by inserting the sentence; not of the same gender, in between two persons and nominated.

And sub section (2)(e) of the Bill is enhanced by deleting the word; one person and replacing it with the word two persons at the beginning of the sentence.

Then we have sub section (2)(i) of the Bill which is enhanced by adding the sentence Ward Administrator of the Ward who shall be an ex-officio.

Sub section (3)(d) of the Bill is enhanced by the adding the sentence:- 'at least 3 years after the word Ward'.

Sub section 7 of the Bill is amended by deleting the Clause entirely and inserting a new Clause:- The term of the committee shall expire when a new

committee is constituted after the general election. Thank you.

(Question that Clause 7 be amended as proposed in the Committee's report put and agreed too)

The Chairman (Hon. Kadera): Hon. Members I propose that Clause 8 to 9 be part of the Bill.

Hon. Awino: Under Clause 8, Sub section 1 of Clause 8 should be enhanced by adding number (1)(e) which comes after (1)(d) and where it is (1)(d) it should be (1)(f). And (1)(e) now reads:- Preparing and submitting annual reports to the County Executive Member. Thank you.

(Question, that Clause 8 to 9 be part of the Bill put and agreed too)

The Chairman (Hon. Kadera): I propose that Clauses 10 to 11 be part of the Bill.

(Question, that Clauses 10 to 11 be part of the Bill put and agreed too)

The Chairman (Hon. Kadera): I propose that Clauses 12 to 13 be part of the Bill. Yes, Hon. Margaret.

Hon. Oketch: I propose that Clause 12 be enhanced by adding the word:- 'Rehabilitation centre.'

The Chairman (Hon. Kadera): Hon. Margaret, you need a seconder. However, if you go to Standing Order Number 126 (2), it states that:- No amendment shall be moved to any part of the Bill by any Member, other than the Member in charge of the Bill, unless written notification of the amendment shall have been given to the Clerk twenty-four hours before the commencement of the sitting--.

You ought to have brought the amendment earlier. You're out of order. Let us proceed, Hon. Zilpa.

Hon. Awino: We propose that Clause 12(a) of the Bill be enhanced by adding:- 'or comes from the Ward' after the word years and then 12(b) be enhanced by adding the word 'polytechnics' after the word college.

Did you call for 13 as well? okay so Section 13(a) was amended by deleting the word 'an' and inserting the word 'a vulnerable' and then Sub-Section of 13(c) of the word is further enhanced by inserting the word 'vulnerable' before the word 'person', thank you.

Hon Adera: Hon. Members I now put the question, that clauses 12-13, be part of the Bill as amended. May as many as for that opinion say I! *(Response)* may those of the contrary opinion say Nay! The I's have it.

Hon. Awino: Thank you Chairman, Section 14, Application for Education Grant, Bursary, and Sub-Section 2 of the Bill is enhanced by adding Sub-section 2(d) to read 'schools'. Sub-section 3 of the Bill is, expand from the Bill. Sub-section 4(b), 14, 4(b) of the Bill is amended by deleting the word '31st January' and inserting the word, 'End of February'. Thank You.

Hon.Adera: I now put the question that Clause 14 and 15 be part of the Bill as amended. May as many as of that opinion say I! *(Response)*, May those with a contrary opinion say nay! The I's have it.

Hon. Awino: Law amendment is Section 16 but Amendment is Section 17.

Hon. Adera: Hon Zilpa, I first need to propose a question, I propose the question that was 16-17 to be part of the bill. You can now proceed.

Hon. Awino: Thank you. Verification of information, Section 17 of the Bill is amended by starting with the word: In case of doubt, to the end of the sentence

Hon.Adera: I now put the question that Clause 16-17 be part of the Bill as amended. May those of the same opinion say I! (*Response*) may those of the contrary opinion say Nay! The Ayes have it. Next?

I propose the question, that Clause 18-19 be part of the Bill

Hon. Awino: Thank you Mr. Chairman, Section 18, Disbursement. Sub-Section 5B of the Bill is amended by deleting the word February, and inserting the word March. Thank You.

Hon.Adera: I now put the question, that Clause 18-19 be part of the Bill as Amended. May as many as of that opinion say I! (*Response*) May those with a contrary opinion say Nay! , the Ayes have it. Next Clause?

I propose the question, that Clause 22-23 be part of the Bill.

Hon.Awino: Thank you Chairman, I think you did not mention 21 earlier on, and so, could I start from 21.

Hon Adera: Clause (21? Okay, I propose that clause 21 be part of the Bill.

Hon.Awino: Thank you. So, Sub-Section 1, Application of the Bill, Section 21, and Sub-section 1 of the Bill is enhanced by adding Sub-section 1(e) to read 'County Website'. That 'E' is a new 'E', and there is an 'F' 'after that' E'. So where there is 'E', replace it with an 'F'. The 'f' should be amended to read, the 'Executive Member may determine'. And insert the past tense, May convenient, 'such other place, as may be convenient'

Hon.Adera: Hon. Members, I now put the question, that Clause 21, as amended be part of the Bill. May as many

as of that opinion say I? (*Response*) may those of the contrary opinion say Nay? The Ayes have it. Next Clause?

I propose the question that Clause 22-25 be part of the Bill.

Hon. Awino: Thank you Chairman, I think the paper that I have has got something missing, there were no amendments from there. Okay thank you. So there were no more amendments after that.

Hon Adera: I now put the question, that Clause 22-25 be part of the Bill. May as many as of that opinion say I? (*Response*) May those of the contrary opinion say Nay? The Ayes have it. I propose the question that 'The Schedule be part of the Bill.

I now put the question that, The Schedule be part of the bill. May as many as of that opinion say I? (*Response*) may as those of the contrary opinion say Nay? The I's have it.

I propose the question that The Title becomes part of the Bill. I put the question that The Title be part of the Bill. May as many as of that opinion say I? (*Response*) may as those of the contrary opinion say Nay? The Ayes have it.

I propose the question that Clause 1 becomes part of the bill. I put the question that Clause 1 be part of the Bill. May as many as of that opinion say I? (*Response*) may as those of the contrary opinion say Nay? The Ayes have it.

Hon. Zilpa? Are you now ready to move the Committee Report?

Hon Awino: Yes!

Hon.Adera: You can now proceed

Hon. Awino: Thank you Mr. Chairman. I beg to move that the Committee who involved the House, its consideration of the Siaya County

Education Fund Bill 2016 and its approval, thereof, with Amendments. Thank you.

Hon. Adera: I now put the question which is that the Committee does the report to the House, its considerations to the Siaya County Fund Bill 2016, and its approval thereof with Amendments. I now put the question that the Committee does report to the House, its considerations of the Siaya County Education Fund Bill 2016, and its approval thereof with Amendments. May as many as of that opinion say I? (*Response*) may as many as of the contrary opinion say Nay? The Ayes have it.

Mr. Speaker Sir, I beg to report to the Committee of the whole House, as considered that the Siaya County Education Fund Bill 2016 had approved the same with amendments.

Hon. Awino: Mr. Speaker Sir, I beg to move that the House do agree with the Committee on the said Report.

Hon. Speaker: Hon. Members, I propose the question, which is that the House do agree with the Committee in the said report. Hon. Members, I put the question which is that the House does agree with the Committee in the said report. May as many as of that opinion say I? (*Response*) May as many as of the contrary opinion say Nay? The Ayes have it.

Hon. Awino: Mr. Speaker Sir, I beg to move that Siaya County Education Bursary Fund Bill, 2016 be now read a 3rd time.

Hon. Speaker: Hon Members, I will propose the question which is the Siaya County Education Fund Bill 2016, be now read a 3rd Time. Hon. Members, I now proceed to put the question which is, The Siaya County Education Bursary Fund 2016, be now read a 3rd Time. May as

many as of that opinion say I? (*Response*) May as many as of the contrary opinion say Nay? The Ayes have it.

Committee clerk: The Siaya County Education Bursary Fund 2016, an Act of County Assembly of Siaya to provide for the establishment of the County Education Bursary Fund, provide for the Management, Governance and the Administration the fund and for connected purposes. 3rd Reading.

Hon. Speaker: Congratulation, Members, It has been very rigorous, you have given your best. However I want to urge the concerned Committee, Committee Education, work hand in hand with the CGC in charge, to make sure that the regulations are made properly and brought to the Committee of delegated legislation to look at them.

The Committee of delegated Legislation, if you are of the view that you need the views of Members, and also consult us to ensure that what you believe will guard, the implementation of this Bill is put in place, you can see the intervention consultants. Thank you so much. Next order!

BILL

EARLY CHILDHOOD EDUCATION BILL

(COUNTY ASSEMBLY BILL NO. 1 OF
2016)

Second Reading

Hon. Okello: Thank you, Mr. Speaker, Sir. I wish to move:
THAT the Siaya County Early Childhood Education Bill, County Assembly Bill No. 1 of 2016 be read a second time

Allow me to make a brief presentation. It is my honor and pleasure to

present to this House, the report of the Committee on Education, Youth Affairs, Gender and Social Services on the Siaya County Early Childhood Education Bill, 2016.

Article 185(1) of the Constitution of Kenya, 2010 stipulates that the legislative authority of a County--

Hon. Minami: Point of order, Mr. Speaker, Sir!

Hon. Speaker: Yes, Hon. Booker!

Hon. Minami: Mr. Speaker, Sir, from where I sit, I have not received the report of the Committee on the matter being presented here.

Hon. Speaker: Are you a Member of the Education Committee?

Hon. Minami: Yes, of course I am.

Hon. Speaker: Was this a report of the Committee or of the selected few?

Hon. Minami: I am talking on behalf of other Members because I believe they also don't have copies.

Hon. Speaker: Other Members know how to talk!

(Laughter)

Hon. Apiyo: Mr. Speaker, I stand to confirm the same. We don't have copies of the report.

Hon. Speaker: Hon. Members, it is true you needed to have been given this report early and if the Committee didn't ---

(Loud consultations)

The Mover of the Motion, what do you have to say about that? Members don't have copies of the report.

Hon. Okello: Mr. Speaker, I want to believe that it is only the two Hon. Members who probably do not have a copy of the report.

Hon. Speaker: Hon. Members, I agree with you totally that you needed to have been given this report in good time; however, allow the Member just to move the Motion. If you feel that it is too technical that you cannot consume it now then we will decide whether to proceed or not at the right time. Will you proceed Hon. Okello!

Hon. Okello: Thank you, Mr. Speaker. Article 185(1) of the Constitution of Kenya, 2010 stipulates that the legislative authority of a County is vested in, and exercised by the County Assembly. Article 185(2) further provides that a County Assembly may make any laws that are necessary for or incidental to the effective performance of the functions and exercise of the powers of the County Government under the Fourth Schedule.

Section 9 of part 2 of the Fourth Schedule to the Constitution of Kenya 2010 provides for an array of functions including provision of pre-primary education, village polytechnics, home craft centres and childcare facilities among others.

It is in this regard that the County Governments are expected to make legislations to enable them to effectively discharge the envisaged functions. The County Government of Siaya has developed the Siaya County Early Childhood Education Bill, 2016 to primarily provide a legal framework for the establishment of the system of Administration for Early Childhood Education in Siaya County.

The membership of the Education Committee is clearly indicated there, it will not be necessary to repeat it.

The mandate of the Committee is established under Standing Order No. 192

and the Committee mandate includes but not restricted to:-

- i) Study and review all County legislation referred to it.
- ii) Make reports and recommendations to the County Assembly as often as possible including recommendations of proposed legislation.

Executive Summary

Mr. Speaker, The Siaya County Early Childhood Education Bill, 2016 went through its first reading on Tuesday, 9th February, 2016 and was committed to the Committee on Education, Youth Affairs, Gender and Social Services.

The Committee organized several stakeholders meetings to look deeply into the Bill. The committee met in Namsagali Hotel –Siaya on Thursday, 11th February with the legal experts, CECM, CO – Education, the Director responsible for Education and Vocational Training together with his counterpart in Sports Culture and Social Services to analyze the Bill and have a common understanding before subjecting the Bill to Public participation. County Assembly Standing Order 121(1) clearly spells out that- ‘A Bill having been read a First Time shall stand committed to the relevant Sectoral Committee without question put.’

Standing Order 121(3) further elucidates that; ‘The Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the committee makes its report to the County Assembly.’

In this regard, Mr. Speaker, Sir, the Committee took the Bill to the public on Friday, 12th February in Bondo and

Ugunja Sub-Counties to provide a forum for the members of the public to air their views on the Bill before submitting the final report in the Assembly.

The Siaya County Early Childhood Education Bill, 2016, is majorly domiciled on the Administration of Early Childhood Education. The Bill is buttressed with The Siaya County Pre-Primary Education Bill, 2016 which dominantly captures the management of Pre-Primary Education and Schools.

Mr. Speaker, Sir, allow me to inform this Honorable House that your esteemed Office had rolled out the wheels of processing the later Bill by committing it to Education Committee on Wednesday, 10th February, 2016 pursuant to our County Assembly Standing Order 121(1). In this regard, the onus of processing the Pre-Primary Education Bill, 2016 rests with this Committee. In line with County Assembly Standing Order 121(3), the committee will facilitate public participation to take into account the views and recommendations of the public before making its final report in the County Assembly within twenty days.

Mr. Speaker, allow me therefore to present a few amendments in terms of the report that we gathered during the public participation fora. The following are the proposed amendments. I will refer to the report and not to the Bill.

Mr. Speaker, if you look at the ‘Long Title’, the Committee recommends that it be amended by inserting the sentence- ‘A framework for the establishment of the systems of administration’. The ‘Long Title’ will therefore read- ‘AN ACT of the County Assembly of Siaya to provide a framework for the establishment of the systems of administration for Early Childhood

Education in Siaya County and for other connected purposes’.

PART II – Responsibilities relating to Early Childhood Education- Section 9: Head of Directorate of Early Childhood Education. Section 9 of the Bill is amended in Sub-section (2b) by deleting the word ‘Education’ and inserting the word ‘Early Childhood Education’.

PART III- Registration of Early Childhood Education Centres - Section 13: Childhood Education Centres to be registered. Section 13 of the Bill is enhanced in sub- section 3 by adding custody sentence of ‘1 year jail term or both’ at the end of the statement

Mr. Speaker, in Section 14: Application for registration. Section 14 of the Bill is amended in Sub-section (3) by deleting the word ‘second directorate’ and inserting the word ‘County Education Board’.

Section 19- Registration Certificate. Section 19 of the Bill is enhanced in sub- section (2) by adding the sentence; ‘however it can be revoked subject to non- compliance’ at the end of the statement.

PART IV – Powers of Entry and Inspection. Section 23: Powers of Entry and Inspection with Warrant. Section 23 of the Bill is amended in sub- section (1) by deleting the number 25 and inserting 22.

PART V – Provisions on Funding. Section 25: Funding Early Childhood Education Services. Section 25 of the Bill is enhanced in sub-section (2) by adding the sentence ‘on recommendation by the County Education Board’ at the end of the statement.

PART VI – Miscellaneous Provisions. Section 27: Offences relating to ceasing operation of a centre. Sub

section (2) of the Bill is enhanced by inserting the sentence ‘3 months jail term or both’ at the end of the statement.

Section 28- Offence of insulting, abusing or intimidating staff. Section 28 of the Bill is amended by deleting the word ‘staff’ from the title to read ‘Offence of insulting, abusing or intimidating’.

Section 28 of the Bill is further amended by sub-dividing it into sub-section (a) and (b). Sub-section (a); Teacher or member of Staff. Sub-section 28(a) will read- ‘a person who intentionally insults, abuses, or intimidates a teacher or member of staff of a centre commits an offence, and is liable, on conviction, to a fine not exceeding fifty thousand shillings or 3 months jail term or both.

Sub-section 28(b); To read ‘a person who intentionally insults, abuses, or intimidates a child of a centre commits an offence, and is liable, on conviction, to a fine not exceeding fifty thousand shillings or 3 months jail term or both.

Section 29: Offence of Obstructing Power of Entry. Section 29 of the Bill is enhanced by adding ‘1 year jail term or both’ at the end of the statement.

Mr. Speaker, Sir, as brief as it is, those are the recommendations and our report from the Committee as far as the Early Childhood Education Bill, 2016 is concerned. I urge Members to kindly consider adopting the amendments that we have made, pass this Bill, and have it fast tracked. This Bill is equally very important as far as the protection of our children is concerned.

May I add that this is one of the key sectors that are devolved and our County has been very keen on putting up ECD centres and all that appertains to early childhood development. I think it is

high time that all that was catered for in a proper legislative framework that this Bill will provide for. I request the Hon. Deputy Speaker, to second.

Hon. Kadera: Thank you, Mr. Speaker, I rise to second.

(Question proposed)

Hon. Munda: Thank you so much, Mr. Speaker, Sir, for giving me chance to also contribute on this important Bill. I want to appreciate the Committee; they had two Bills at stake but they took quite a little time to go through them. They were important Bills. This is the foundation of education and we need to put things in place so that our children get the basics in a good manner. I stand to support the Bill and urge my colleagues to also do the same. Thank you.

Hon. Adera: Thank you, Mr. Speaker. I also wish to be brief, and given that Members have been here since 2.00 p.m., vigorously debating about the Ward Bursary Fund Bill and people feel exhausted, I do not want to bother them with long contributions.

Having looked at the Bill at hand, I wish to congratulate the Education Department for coming up with such a Bill because it will bring sanity in the early childhood education sector. We have seen a number of centres operating without licenses and the fact that they are handling very little children-- I think this Bill bring some order in that sector.

I have seen some penalties being included in the Bill and this will also call for the enactment of some laws that will create a County Court. Otherwise we will be making money for the National Government. If one is guilty or convicted with an offence of operating a centre

without a valid license, I have seen that the person will be charged not more than Kshs. 100,000; this money will be going to the National Government. We need to fast-track the establishment of our County Court so that this becomes part of the County Revenue. In a day we can make a lot of money plus others because in the line we have an Act Bill of Alcoholic.

Those are the Bills that require us to have our own court whereby the funds that are raised from them will be coming to our County Revenue instead of going to the National Government. The true meaning of devolution is to bring resources to the people; and the money that we get; if we take it back to Nairobi, then we will be losing the meaning of devolution.

I just wish to urge the Education Department to work with speed and ensure that this good Bill is enacted into law and that it is operationalized. We don't want a scenario where we pass those Bills then after they are ascended to, they are just kept in the cabinet. We want to see this Bill operating. We don't want a scenario where every Tom, Dick and Harry can just run and operate an institution without a valid license. Mr. Speaker, Sir, I support.

Hon. Speaker: Yes, Hon. Willis

Hon. Ochieng: Thank you, Mr. Speaker, for having given me this chance. I want to start by thanking the authors of this Bill and extend the same to the Committee on Education for having done their part by also to come up with very good amendments. We all know that the ECDE department has been devolved and as a County we must put things in place so that we make sure we implement it to the latter.

I think it is the right time to have come up with a Bill as we all want a bright future and a brighter future depends on our young pupils who go to the ECDE centres. As a matter of fact, it is their basic right to be given good education and a better foundation. The Bill covers all the basics that will be given to our pupils. I call on the implementers who are the Executive, that after we have passed the Bill, it should be implemented with immediate effect so that our children benefit. Thank you and I urge the whole House to adopt the report.

Hon. Speaker: Thank you.
Member for Central Sakwa!

Hon. Andiego: Thank you, Mr. Speaker. Let me also join my colleagues in supporting the Bill and also to congratulate the authors/Committee. The Committee on Education this time round has made us proud and we also learnt that we can within a very short period do many things in our Assembly.

Our main issue now is the implementers who for a very long time have been a let-down in the County of Siaya. As you know, Mr. Speaker, Sir, we have passed very many Bills in this House and many a time, the Bills and even reports are not implemented as required. These Bills are so good as we are passing them and we really expect much.

At times, Mr. Speaker, when it comes to the implementation and the interpretation of what is here, it is done to sweeten the interpreter. At times they change. These things are for the benefit of Siaya County and not for an individual. We have put a lot of effort, energy and money to make these things, let them work to benefit the whole County.

I request all of us to support this Bill and we hope to see real implementation this time round. We need

the Bill to work so that as elected Members of this County Assembly, when we go back to our people, we can show them what we have done. When we show them what is happening, we will be easily re-elected. I support.

Hon. Apiyo: Thank you, Mr. Speaker. I want to join my colleagues in supporting the Bill. I was there when the Bill was taken to the public. What I love most in this Bill is the protection we are going to give teachers who teach our little ones. If you intimidate or abuse them, you stand to be taken to a Court of Law. We need to protect the little ones and this can only be done by protecting the teachers. We need to give them some respect. I stand to support the Bill.

Hon. Speaker: Going by the mood of the House, I call upon the Mover to reply.

Hon. Okello: Thank you, Mr. Speaker. I will be brief in my reply and may I start by thanking the Members for supporting this Bill. It is said that the strength of a society is judged by how we protect the youth amongst us. Today we are making laws that are really going to protect the weakest amongst us; vulnerable children who cannot in any way protect themselves. So, I want to congratulate the Assembly for supporting a Bill that tries to protect the weakest in the society.

This afternoon this Assembly has done a very great work and it is my regret that the Assembly does not have a place where Members could hereafter proceed to celebrate the scores of this day. I want to urge other departments to follow suit from what the education department has done and also come out with Bills that will help the people of Siaya County.

I want to say that some of the laws that have been proposed here are meant to

act as a deterrent to people who commit crime against children. I appeal to the Executive and all of us to make the public aware that from now henceforth, the County Assembly of Siaya has passed this Bill. The Bill is in place and therefore protection is guaranteed.

Otherwise, I feel very proud to be part of this Assembly today. I want to believe that if the Petitioners would have stayed for some time to see what we are doing today, they would have been the first people to report to the members of the public that the County Assembly of Siaya means well. Thank you, Mr. Speaker, Sir, I beg to move.

(Question put and agreed to)

(The Siaya County Early Childhood Education Bill, 2016 read for a second time)

Hon. Speaker: As I said before, Hon. Members, our Standing Orders No. 118 talks of not more than one stage of a Bill to be taken at the same Sitting and it says; 'Except with the leave of the County Assembly, not more than one stage of a Bill may be taken at any one Sitting'. From the mood of the House, there being no objection, let it go on record that the House committed that we sit to the next stage of the Bill. Next order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Hon. Speaker left the Chair]

IN THE COMMITTEE

[The Chairman (Hon. Kadera) took the Chair]

THE SIAYA COUNTY EARLY CHILDHOOD EDUCATION BILL, 2016

*(County Assembly Bill No. 2 of
2016)*

The Chairman (Hon. Kadera):

Hon. Members, we are now in the Committee of the Whole House. Can we start?

Clauses 2-8

(Question proposed)

(Question that Clauses 2 – 8 be part of the Bill put and agreed to)

Hon. Ngure: Point of order, Mr. Chairman.

The Chairman (Hon. Kadera):

What is your point of order?

Hon. Ngure: We don't have quorum

The Chairman (Hon. Kadera):

Clerk, do we have a quorum?

(Quorum confirmed)

Clauses 9-13

Hon. Okello: We have a proposal for amendment of sub-clause 9 (2) (b) by deleting the word 'Education' and inserting the word 'Early Childhood Education.

(Question proposed)

(Question that Clause 9 be part of the Bill as amended in the report put and agreed to)

Hon. Okello: Sub-clause 3 of Clause 13 is amended by adding 'custody sentence of 1 year jail term or both' at the end of the statement.

(Question proposed)

(Question that Clause 13 be part of the Bill as amended put and agreed to)

Clauses 14-19

Hon. Okello: Mr. Chair, we have a proposal that sub-clause 3 of clause 14 be amended by deleting the word ‘second directorate’ and inserting the word ‘County Education Board’.

(Question proposed)

(Question Clause 14 be amended put and agreed to)

Clause 15

(Question proposed)

(Question Clause 15 be part of the Bill put and agreed to)

Clauses 16-18

(Question proposed)

(Question that Clauses 16–18 be part of the Bill put and agreed to)

Clause 19

Hon. Okello: We propose that sub-clause (2) of Clause 19 be enhanced by adding the sentence, ‘however it can be revoked subject to non-compliance’ at the end of the statement.

(Question proposed)

(Question Clause 19 be part of the Bill as amended put and agreed to)

Clauses 20-22

(Question proposed)

(Question that Clauses 20-22 be part of the Bill put and agreed to)

Clause 23

Hon. Okello: Sub-clause 1 of Clause 23 is amended by deleting 25 and inserting 22.

(Question proposed)

(Question that Clause 23 as amended be part of the Bill put and agreed to)

Clause 24

(Question proposed)

(Question that Clause 24 be part of the Bill put and agreed to)

Clause 25

Hon. Okello: Sub-clause (2) of Clause 25 is amended by adding the sentence ‘on recommendation by the County Education Board’ at the end of the statement.

(Question proposed)

(Question that Clause 25 as amended be part of the Bill put and agreed to)

Clause 26

(Question proposed)

(Question that Clause 26 be part of the Bill put and agreed to)

Clause 27

Hon. Okello: Sub-clause (2) of Clause 27 is enhanced by inserting the sentence ‘3 months jail term or both’ at the end of the statement.

(Question proposed)

(Question that Clause 27 as amended be part of the Bill put and agreed to)

Clauses 28-29

Hon. Okello: Mr. Chair, we have a few amendments. Clause 28 of the Bill is amended by deleting the word ‘staff’ from the title to read ‘offence of insulting, abusing or intimidating.

Clause 28 of the Bill is further amended by sub-dividing it into sub-clauses (a) and (b). Sub-clause (a) to read; ‘a person who intentionally insults, abuses

or intimidates a teacher or member of staff of a centre commits an offence, and is liable, on conviction, to a fine not exceeding fifty thousand shillings or 3 months jail term or both’.

Sub-clause (b) to read; ‘a person who intentionally insults, abuses or intimidates a child of a centre commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or 3 months jail term or both.

Chair, finally Clause 29 of the Bill is enhanced by adding ‘1 year jail term or both’ at the end of the statement.

(Question proposed)

(Question that Clauses 28-29 be part of the Bill as amended put and agreed to)

Clauses 30-32

(Question proposed)

(Question Clauses 30-32 be part of the Bill put and agreed to)

The Title

Hon. Okello: We propose an amendment on the Long Title by inserting the sentence; ‘a framework for the establishment of the systems of administration’ to read; ‘AN ACT of the County Assembly of Siaya to provide a framework for the establishment of the systems of administration for Early Childhood Education in Siaya County and for other connected purposes.

(Question proposed)

(Question the Title be part of the Bill as amended put and agreed to)

Clause 1

(Question proposed)

(Question Clause 1 be part of the Bill put and agreed to)

The Chairman (Hon. Kadera): I will now call upon the Mover to tell us if he is of the opinion that we report the same to the House.

Hon. Okello: Thank you, Mr. Chairman. I beg to move: THAT the Committee reports back to the House its consideration of the Siaya County Early Childhood Education Bill, 2016 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(Resolution to be reported with amendments)

[The House resumed]

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

REPORT

Hon. Speaker: Yes, Mr. Chairman!

Hon. Kadera: Mr. Speaker, Sir, I beg to report to this House that the Committee of the Whole House has considered the Siaya County Early Childhood Education Bill, 2016 and approved the same with amendments.

Hon. Speaker: Yes, Hon. Walter!

Hon. Okello: Thank you, Mr. Speaker, Sir. I beg to move that the House doth agree with the Committee in the said report.

(Question proposed)

(Question put and agreed to)

Hon. Okello: Mr. Speaker, Sir, I now beg to move that the Siaya County

Early Childhood Education Bill, 2016 be
now read a third time.

(Question proposed)

(Question put and agreed to)

*(The Siaya County Early Childhood
Education Bill, 2016 read a third time)*

ADJOURNMENT

Hon. Speaker: Hon. Members, we
remain upstanding for adjournment. There
being no other Business, this House
adjourns until tomorrow, Wednesday, 17th
February, 2016, same venue at 9.00 a.m.

The House rose at 6.12 p.m.

WEDNESDAY, 17TH FEBRUARY, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER**PAPER**

GOVERNANCE COMMITTEE REPORT ON
BENCHMARKING VISIT TO KWALE COUNTY
ASSEMBLY

Hon. Awuor: Mr. Deputy Speaker,
Sir, I am on my feet to lay the following
document on the Table of the House:

Report of the Governance and
Administration Committee on
benchmarking visit to Kwale County
Assembly on delineation, establishment
and operationalization on the village units
(*Hon. Awuor laid the document on the
Table*)

NOTICE OF MOTION

GOVERNANCE COMMITTEE REPORT ON
BENCHMARKING VISIT TO KWALE COUNTY
ASSEMBLY

Hon. Awuor: Mr. Deputy Speaker,
Sir, I wish to give notice of the following
Motion:

THAT, this House adopts the
Report of the Sectoral Committee on
Governance and Administration on
benchmarking visit to Kwale County
Assembly on delineation, establishment
and operationalization on the village units,
laid on the Table of the House today,
Wednesday, 17th February, 2016.

MOTION

GOVERNANCE COMMITTEE REPORT ON
BENCHMARKING VISIT TO KWALE COUNTY
ASSEMBLY

Hon. Awuor: Mr. Deputy Speaker,
Sir, I wish to move the following Motion:

THAT, this House adopts the
Report of the Sectoral Committee on
Governance and Administration on
benchmarking visit to Kwale County
Assembly on delineation, establishment
and operationalization on the village units,
laid on the Table of the House today,
Wednesday, 17th February, 2016.

I call upon Hon. Owiti Osuri to
second.

Hon. Osuri: Mr. Deputy Speaker,
Sir, I second.

(Question proposed)

Hon. Awuor: Mr. Deputy Speaker,
Sir, on behalf of my Committee, allow me
to present this Report.

Mr. Deputy Speaker, Sir, the
Committee on Governance and
Administration has the honor and privilege
to present the Report on Benchmarking
with Kwale County Assembly on
Delineation, Establishment and
Operationalization of the Village
Unit/Administration in efforts to fulfill the
interests of the people in line with Article
176 (2) of the Constitution and read
together with Section 48 sub-section (3)
and (4) of the County Governments Act,
2012, and the provisions of Standing

Order 192 (5) (e) and (f) with respect to Standing Order 193 (3).

Mr. Deputy Speaker, Sir, the benchmarking visit was made against the fact that it is more than two years since the County came into operational being with a functional government yet Siaya County does not have Village Units, the most basic level of devolution, an assured structure for decentralization of decision making power, finances and services to the grassroots, a significant platform for the inclusion and involvement of the people in the decisions and actions directly affecting the management of their affairs.

1.0. Introduction

Mr. Deputy Speaker, Sir, previously, the County has witnessed in its various parts, violence between and among the people of various parts of the county and divisiveness of its communities on issues around determination of political and administrative boundaries.

In 2008, Gem Constituency, then graduating into an administrative district under the defunct Provincial Administration was almost torn in three different segments as a result of disagreements on where to locate the 'District Headquarters' then. The creation of Ugunja District and later Ugunja Constituency was a big problem that almost pitted the greater Ugenya against itself and later, Alego against itself, and against the people of Ugunja.

The resolution to have Siaya Municipality as the Seat of Siaya County as opposed to Bondo Town is a much recent evidence of lack of a proper mechanism of determination of the sharing of "the commons" and delineation of boundaries, administrative and political alike, in this county. While the Committee

of Experts managed to curve the boundaries of Siaya County, its sub-counties and wards successfully, delineating and establishing Village Units was left to the counties assemblies.

Mr. Deputy Speaker, Sir, a number of Statements have been requested on this Floor regarding the village units, the last but not the least being in July when the Hon. Mathews Onduru, MCA, West Uyoma even sought to know why there was delay in recruitment of Village Administrators, who in actual sense, should have been done with but due to lack of an Act creating village units and their positions it is still a pending issues, an assured weapon for curtailing further devolution against Article 176 (2) of the Constitution.

Mr. Deputy Speaker, Sir, with respect to Standing Order 41 E, the Committee through the Office of the Clerk has organized and held discussions with the Executive on way forward, amid debate that the responsibility for drafting the Bill lies with the Executive which has on the contrary maintained that Section 48 (1) squarely rests the matter with this Honorable House.

Mr. Deputy Speaker, Sir, alongside other Statements, under Standing Order 41 D (3) (b), the Speaker directed that the Committee on Governance and Administration further consider the matter.

1.1 Mandate of the Committee

Mr. Deputy Speaker, Sir, this matter was referred to the Committee given that matters on/about/relating to the Public Service specifically and broadly fall within the mandate of the Committee which according to Standing Order 192 read together with the Second Schedule of the Standing Orders, entails but is not

limited to; ensuring and coordinating participation of communities and wards in governance at local level, assisting communities and locations to develop administrative capacity for the effective exercise of the functions and powers and public participation in governance at the local level”.

Membership

Mr. Deputy Speaker, Sir, the Committee comprises 11 Members: Hon. Joseph K’awuor (Chairman), Hon. Joshua Osuri (Vice Chairman), Hon. Peter Muhulah, Hon. James Munda, Hon. Fred Ouda, Hon. Nicholas Aneme, Hon. Mary C. Ajwang, Hon. Angeline A. Odhiambo, Hon. Anastasia Augo, Hon. Selah Okwako, Hon. Kesia Siwa.

Terms of Reference/Guidelines

Mr. Deputy Speaker, Sir, this Committee was to:

1. Study The Kwale County Creation of Village Administrative Units Act, 2014 and identify its strengths and weaknesses and recommend what Siaya County Assembly can borrow from it.
2. Investigate the challenges Kwale County met during exposition of the Draft Bill to the people and how it dealt with them;
3. Seek information on progress made by Kwale County on implementation of the Act (particularly the performance of quasi-role of the Village Councils in representation, legislation and oversight) and the challenges it is meeting / has met in the course of implementation and copying mechanism;
4. Gauge the impact of Village Units on devolution of decision making power,

finances and decentralization of services to the grassroots;

5. Acquire best practices for improvement of the Committee’s capacity in dealing with such and related matters; and
6. Strengthen bilateral relations and brotherhood with the County Assembly of Kwale.

By achieving these objectives, the Committee was to come up with information for the fulfillment of the following:

1. Predictable challenges that Siaya County may face in delineating and establishing the Village Units and a solutions toolbox
2. An effective methodology for peaceful delineation and establishment of Village Units;
3. Information on practical role of Village Council methodology for execution of its quasi-role in representation, legislation and oversight) and the challenges that may arise in Siaya County;
4. Information on the feasibility of the Village Unit as an instrument for devolution of decision making power, finances and decentralization of services to the grassroots;
5. Best practices borrowed and improved capacity of the Committee to deal with such and related matters; and
6. Strengthened bilateral relations and brotherhood with the County Assembly of Kwale.

2.0. Proceedings

Mr. Deputy Speaker, Sir, the Committee, having received the Statement, met on 2nd July, 2015 and after looking at the matter and the nature of response needed, resolved to seek written

response(s) from the Public Service Board and the CEC Member for Governance conduct meetings specific ones of which the witnesses would attend, as the most suitable approach to the matter referred.

The main respondents were:

1. The County Executive Committee Member for Governance & Administration (incumbent Hon. George Okello) on behalf of the County Executive with the Chief Officer, Governance & Administration as his alternate, and the Interim County Secretary was actually and potentially answerable.

The Committee was also tasked to engage with the County Assembly of Kwale's Committee on Planning, Trade, Tourism Investment and ICT, being the corresponding Committee on the matter in question.

2.1. Meetings

2.1.1 Major Engagements/Meetings

Mr. Deputy Speaker, Sir, among the major engagements between the Committee and the CEC Member for Governance and Administration were:

1. The meeting held on 1st April, 2014 in which the Committee, reading keenly Article 176 (2) of the Constitution and 48 (1) (3) (d) and (4), resolved that there was need for the Committee to benchmark with counties which had established or were in the process of establishing the village units. Identified during the meeting were: Homa Bay, Machakos and Nyeri Counties.
2. The meeting held on 10th April, 2015 during which the Committee, upon realizing the intention, resolved vide minute No. MIN: PAGC/36/2014 of 10th April, 2014 and advised the Board and the Executive that it was illegal

and unprocedural to draft the Village Units without the input of the Committee.

3. The deliberations in the House on Tuesday August 4, 2014 during which Hon. Mathews Odeny Onduru, MCA, West Uyoma Ward requested Statement on status of implementation of the devolved functions to the Wards and Village Units in accordance with Article 176(2) of the Constitution of Kenya. The matter was committed to the Committee on Governance and Administration on Tuesday August 26, 2014. When it was referred for reaction by the County Executive Member for Governance and Administration, the Executive responded thus: "With regards to the establishment of Village administrative units, the prerogative as provided for in Section 48 (1) (d) lies with the County Assembly."

Nonetheless, the Executive informed that it was drafting a Bill on Village Administration.

4. The Committee sought for reinterpretation by the Committee on Delegated Legislation of the County Assembly.
5. The Committee held a meeting on 3rd October, 2014 during which the Committee vide minute No. MIN: PAGC/5/2014 of the same date advised that a taskforce comprising qualified experts be formed to work with the Committee on Delegated Legislation, Justice and Legal Affairs to come up with a strategy on how to handle the matter on Village Units.
6. The Committee sat on 6th January 2015 and resolved to visit even Kakamega County which was nearer but due to lack of adequate finances to facilitate

the Committee, it was not possible at the time to carry out the benchmarking visit.

7. On 7th January, 2015, the Committee renewed the benchmarking agenda, a resolution made vide minute No. MIN: PAGC/20/2015. The Committee wrote to the Office of the Honourable Speaker on the same and the position remained that the Assembly was facing financial challenges due to delay arising from the Executive. (See minute No. MIN: PAGC/27/2015). The Committee in agreement with the CEC Member for Governance began to organize another option.
8. The next consultative meeting with the CEC Member for Governance and Administration was on 7th October, 2015 during which it was unanimously resolved that the Committee should visit Kwale County on 30th October, 2015 and that two senior officials from the Executive Department for Governance and Administration be part of the delegation for purposes of benchmarking together and given that the Executive Department for Governance and Administration would be the implementer.
9. The last consultative meeting with the Executive was held at the Jacaranda Indian Ocean Beach Resort, Diani Beach, Ukunda, Kwale County where Mr. George O. Okello, CEC Member for Governance and Administration, Hon. Joseph O. Awuor, Chairman, Committee on Governance and Administration and Sanmac Okoth, Committee Clerk met to harmonize objectives and outlined the key issues and questions that were used to guide the deliberations with the Committee on Planning, Trade, Tourism

Investment and ICT, County Assembly of Kwale.

2.2. Procedure Adopted for Evidence Gathering

The Committee adopted consultative meetings and benchmarking visits. From the CEC Member for Governance and Administration, written and oral submissions were sought. From Kwale County, the Committee requested copy of The Kwale County Creation of Village Administrative Units Act, 2014 and the report of the Committee on the Bill, used to guide the Kwale County Assembly in the Readings. In addition, the Committee made a benchmarking visit, the core of this report. During the visit, face-to-face discussions were held in plenary where the Chairman, Committee on Planning, Trade, Tourism Investment and ICT, Kwale County Assembly made presentation on the Public Participation process and on the Act and invited questions from the Chairman, Committee on Governance and Administration, Siaya County Assembly and his delegation.

3.0. Findings

In order to arrive at valid and reliable findings, the Committee conducted meetings according to the Standings Orders, the Constitution and parliamentary procedures and practices.

3.1 Key Findings

Specifically, the Committee found that:

1. The County Executive drafted The Kwale County Creation of Village Administrative Units Bill, 2014 contrary to the provisions of Article 176 (2) and Section 48 (1)(d), and submitted to the County Assembly of Kwale for deliberations;
2. The Bill was committed to the Committee on Planning, Trade,

Tourism Investment and ICT for the Readings and was Tabled in December 2013;

3. The Committee, pursuant to Article 196 (b) read together with Section 87 (b) of the County Governments Act, 2012, facilitated public participation and involvement in the Bill- at the Sub-County level: Lungalunga, Msambweni, Kinango and Matuga Sub-Counties,
4. The Bill was rejected by the people for the first time since it had only provided for the creation of 68 Village Units yet the people felt that they should have been 77 to cover the varied interests in consideration of Section 48 (1) (d) and Subsection 3 of the County Governments Act;
5. In addition, the Villages proposed earlier were based on the provincial administration boundaries which did not reflect the popular will of the people- the Committee therefore used Subsection 3 and the 2009 National Housing and Population Census, 2009 to curve out the Village Units;
6. Townships whose populations exceeded 15000 people were divided into two or three Village Units;
7. The Bill was passed into The Kwale County Creation of Village Administrative Units Act, 2014 thereby establishing 77 Village Units. The Committee had recommended the increment of the number of the Village Units initially proposed by the Executive to be 68, by 9 more units, taking into consideration the provisions of Section 48 (3) of the County Governments Act that is: taking into account the –
 1. Population size; This was given preeminence in cases where the

population would exceed 15000 people yet the other factors would be constrained or otherwise a population more than 10000 but less than 15000 people would form a Village in case the other factors as such the geographical expanse or uniqueness of a culture would dictate or otherwise. Vanga people who migrated from Tanzania and are neither Digo nor Duruma who are the dominant communities in Kwale County was given as an example.

2. Geographical features; These would be considered such that some villages would have less than 15000 people given that some were very expansive thus would constraint the administrative operation of the Village Unit and its effectiveness as a tool for devolution and the cases of Vanga/Jego, Perani and Sega Villages were cited.
3. Community of interest, historical, economic and cultural ties; and certain communities could not qualify by parameter of numbers such as the Vanga who are treated as aliens supposedly tracing their ancestry from Tanzania. Their unique culture was considered. Common economic opportunities such as Diani Beach were considered in the case of Magutu, Kilolopwa and Mkwakwani Villages.
4. Means of communication. This was a major consideration particularly on access to the sea and road networks such as in Ramisi Ward.
5. In delineating the Village Units, the number of Villages was purely determined by the above factors outline in Subsection (3), other than the wage bill question. This was a

concern for Members from Siaya but Kwale County Assembly maintained that it was in the interest of the people as outlined in Article 176 (2) read together with Section 48 and that it was the responsibility of the Assembly to allocate adequate resources for the operationalization of the Villages;

6. The provincial boundaries such as those of location and / or sub-location were not given preeminence in determining the Village Units since most citizens argued that such boundaries were created unfairly. For Example, Dzombo Ward which was the same size and place as Dzombo Location and also Dzombo Sub-Location was divided into three: Mwananyamala, Gandini and Mwenzamwenye Villages;
7. The process of determination of the sizes, numbers and names of the Villages was relatively smooth i.e. there were no chaos, the communities have still remained united as residents of Kwale County;
8. The Committee was informed that Kwale County was finalizing recruitment of Village Administrators, 77 in number, one administrator for each Village Unit;
9. The Act had left the responsibility to determine education/academic qualifications for the Village Administrator to the Kwale County Public Service Board but urged that it must be somebody who must come from the Village and has capacity to understand and respond to the concerns of the residents;
10. The Village Council of a Village Unit in Kwale County comprised of:

- i. The Village Administrator as the Chairman
- ii. At least Three but not more than Five Members apolitically competitively selected by the people at the grassroots

Key Issues During Public Participation

1. The Bill was subjected to public participation but the participation mainly targeted organized groups and association and was mainly done at the Sub-County Level. The following, the Committee noted, could be used as lessons that can help Siaya County in presenting the Bill to Public Participation:
 - 1) That special attention be given to the Public since geographical and demographic factors tend to subsume historical, cultural and economic ties yet these form the basis of most conflicts among communities;
 - 2) In using population as a parameter for determination of the Village Unit, very current census/survey should be used and unless otherwise, the 2009 National Housing and Population Census may not be very accurate;
 - 3) In case of 2 above, the population of a Village Unit should not be less than 5000 people nor should it be more than 12000 people and growth rate be considered as well;
 - 4) In case geographical size is used, transport and communication networks must be given consideration along;
 - 5) The individual common citizen not necessarily groups, should be given priority since groups may tend to represent selfish interests;

Implementation Progress, Challenges and Copying Strategies

1. The implementation of the Village Units Act, 2014, the Committee was informed, had met some hurdles since the Executive was not initially keen on implementing the Act due to the increase of the numbers from 68 to 77 which it could not accommodate in the FY 2014/2015. However, the Committee learnt that the County Assembly of Kwale allocated sufficient funds for operationalization of the Village Units in the FY 2015/2016;
2. The Executive had requested the Kwale County Public Service Board to recruit 77 Village Administrators in accordance with Section 4 subsection 2 of The Kwale County Creation of Village Administrative Units Act, 2014, and the latter had just finalized the process;

3. That Kwale County Executive was, upon the Appointment of the Village Administrator, preparing to appoint Village Elders in accordance with Article 172 (2) Section 53 (2) of the County Governments Act, 2012 and Section 8 (1) of The Kwale County Creation of Village Administrative Units Act, 2014;
4. The current experience with Ward Administrators employed and working in their Wards of origin/residence is bad therefore, although the Act provides for employment of and deployment of Village Administrators in their respective Village Administrative Units, the County Assembly is reconsidering the transfer of Sub-County, Ward (and Village Administrators) outside their respective administrative units of origin/residence.

4.0. Conclusion

In view of the foregoing, the Committee concluded that:

1. Participation by both men and women is a key cornerstone of good governance. The people must fully participate in the drafting and the content of the Bill on Village Units;
2. The delineation and establishment of the Village Units in Kwale were relatively transparent i.e. information regarding the Bill was freely availed to the People of Kwale through public participation at the Sub-Counties and in Swahili, the most widely and commonly spoken language of the residents. Siaya County Assembly should go the same way;

3. Given that the people participated, men and women, young and old alike, in the Kwale County Village Units, Bill (now Act, 2015, the institution of the Village Administrator and Village Council and their processes are expected to serve all stakeholders within a reasonable timeframe. This should be a mirror line for Siaya.
4. The different interests in society must be mediated as the case was in Kwale and broad consensus were reached in the best interest of the whole community. There was a proper understanding of the historical, cultural and social contexts of a given society or community.
5. The most vulnerable communities in Siaya should be considered just as Kwale County Assembly considered the Vanga thus have opportunities to improve or maintain their well-being.
6. Given their political background, the Village Unit is surely seen as an efficient and effective tool for devolution; and

It must be emphasized that decentralization down further in the County may cause greater disparities between rich and poor regions, especially during times of crisis when the national government may not be able to help regions needing it. Issues to do with further devolution as provided for in Article 176 (2) of the Constitution, Section 48(1)(d), 48(3) and (4) of the County Governments Act No 17 of 2012 must be considered.

5.0. Recommendations

The Committee therefore made the following recommendations:

1. Delineation of the boundaries of each village units must consider the

provisions of Section 48 (3), each of the parameters are meant to guard against the disadvantage of the other:

- i. Population size; the estimated population of Siaya County is 842, 304. If this is used then there will be 71 Village Units: at least one and at most four per ward
- ii. Geographical features; by size Siaya County is 2,496.1 km². The different sizes of each Ward should be considered appropriately in demarcating the Village Units; environmental and natural resources including water sources
- iii. Community interest, historical, economic and cultural ties should be considered alongside population and geographical size; and
- iv. Means of communication.

2. The existing national government administrative boundaries down the county may not be used for purposes of delineation and establishment of Village Units;
3. The people must participate properly in the Bill;
4. The wage Bill is may be an important factor to be considered but it must not blur our vision against Article 176 (2) of the Constitution and Section 48 (3) and (4) of the Act;
5. In preparation of the Bill, the Committee on Governance and Administration must ensure that the formation of Village Units will not lead to factors that can hinder devolution.
6. Other challenges, and even dangers, including the possibility that corrupt local elites can capture regional or local power centers,

- while constituents lose representation should be avoided;
7. Problems that may lead to incomplete information and hidden decision-making up and down the hierarchies where centralized power centers can find reasons to frustrate decentralization and bring power back to themselves at the County Headquarters should be avoided.
 8. The Kwale County Creation of Village Administration Units Act, 2014 can be borrowed from when drafting the Siaya Bill on the Village Unit;
 9. Cases that may lead to clashes or conflict arising from the determination of size, endowment and name of village unit should be solved in accordance with the law;
 10. The Bill on Village Administration Unit should be mutually exclusive, not mixed with other issues.
 11. The County Assembly to facilitate the Committee in terms of finances and technical capacity to draft and Table the Bill within 60 days upon adjournment on Thursday December 3, 2015.

Submission

Mr. Deputy Speaker, Sir, on behalf of the Committee, and pursuant to Standing Order 192 (5) (d) and (f), it is my pleasant duty to Table in this Assembly, the Report on Benchmarking with Kwale County Assembly on Delineation, Establishment and Operationalization of the Village Unit/Administration and urge that the Report be Adopted by this Honourable Assembly.

Mr. Deputy Speaker, Sir, for easy of understanding, attached are the chapters and annexures of the Report. We may not

be able to go through them now. I request the Office of the Clerk to send them to Members E-mail addresses.

At the back is a research done by the Committee on the population of Siaya County. It has been done as per the Sub-Counties.

Mr. Deputy Speaker, Sir, I urge the House to adopt the Report so that we move with speed to make sure that a Bill is prepared and put in place to operationalize the village units. If it were not for the extension of the Constitutional offices, I think someone should have gone to court to stop Siaya and all those Counties which have not created the village units. Time is not on our side, I want to urge the House to pass this Bill. I rest my case. Thank you.

Hon. Deputy Speaker: Before I give a chance to any Member to make a contribution, I disagree with you on the citation, Article 176, 2. I take you back to page 10 under findings. The County Executive drafted the Kwale County creation of village Administrative units Bill 2014 contrary to the Article 172 and section 48, 1d and submitted to the County Assembly of Kwale for deliberations. Article 176:

- (1) There shall be a County Government for each county, consisting of a County Assembly and a County Executive.
- (2) Every County Government shall decentralize its functions and the provision of its services to the extent that it is efficient and practicable to do so.

I don't see any relationship with whatever you have given us, I know there is an Article that specifies that it is the County Assembly that shall create village units. I wish I had time; I could be able to--

Hon. Minami: Mr. Deputy Speaker, Sir, a point of Order.

Hon. Deputy Speaker: Hon. Minami, what is your point of Order?

Hon. Minami: Maybe I will just require your directions, is it in order for the Speaker to contribute from the Chair.

Hon. Deputy Speaker: Hon. Minami, it is the duty of the Speaker to guide the Assembly the Chair cannot sit back and watch when things are not put in order and you want the Speaker to keep quiet, you want to gag the speaker.

(Laughter)

You cannot gag the Speaker. I will give more Members time to contribute. If and especially when the Speaker feels there is something that is strictly incorrect. Proceed, Hon. Ndonji.

Hon. Ndonji: Thank you, Mr. Deputy Speaker, Sir, first I want to congratulate the Committee for the good work they have done. Benchmarking is meant to compare what is being done in other Counties with ours with the aim of either improving on what we are doing or making ours become a better one. However, I want to point out some issues in the recommendations, on page 15 the second part of recommendations number two where they have talked about population size.

If the Committee can tell us that the estimated population of Siaya County is 842,304 and they go ahead by saying that if this is used we are going to have 71 village units, that means that they have already decided on the size of population per village unit and if I go through the same Report it is indicated behind there that the population of people who are supposed to be in a village unit is between 5,000 and 12,000. They have already decided that ours will be 12,000 I tend to think that it shouldn't have decided now

but should be debated still so that we make a decision.

Hon. Deputy Speaker: Hon. Ndonji, in the same page 5.0 reads recommendations, so they have not made a decision, it's just a recommendation.

Hon. Ndonji: I agree but you see the way that one has been put it's like it's already a decision; they have already calculated at the population of 12,000 per village and that is what I was trying to counter.

The second issue is where it is being said that we are not going to use the Provincial Administrative units as they are, well I agree with that one but at the same time we might have to use part of it and in fact most of it particularly when it comes to Wards because all Wards have sub locations so what I'm trying to say is that even if we are doing it we are going to use it in such a manner that no sub location goes to two Wards.

For example if there is a village unit that we want to create, we cannot take one that is at the border then take some people from this Ward to this other Ward so that they can make a village because when it comes to development it might be difficult to know what is supposed to be done by which particular Ward.

Even if we are no regarding the provincial administrative units but I tend to think that we have to be so keen about the Wards such that it doesn't overlap to any other Ward. Otherwise, I support it and I want to say that it's been long overdue. If we can put this one in place, I think even the functionalities of the County Government will become very effective, thank you.

Hon. Andiego: Thank you, Mr. Deputy Speaker, Sir, let me also take this opportunity to also thank the Committee

for this good work they have done and also the time that they have taken to move from Siaya to Kwale. When we came to this House in 2013, we thought that in the next one year, all the Ward administrators and the village administrators will be in place to make us run this County as required and it is unfortunate that up to date we are still looking into ways of how we can put the administrative levels into place.

As you can see even right now as we are doing our budget, at times it becomes very difficult because our people at times they get tired of participating and if we would be having the village administrators in place it would be giving us very easy time to work for the development of our Wards and therefore we request that now that we are having the Report which I'm asking Members to pass, we are also asking the Committee to move with speed so that this be implemented they talked to the CECMs concerned to make this Report be implemented so that we don't leave this session without having the village administrators in place.

I also want to support what Hon. Ndonji said, it is true that if it is left for the people to decide and then in the Report you have decided and do the calculations and you also know very well that these are the census of 2009 and you are now approaching 2016. You the difference that has come to place, you must be having a quarter increment in what we have in place and therefore if we use this as you are placing it, I think you will reduce the number of village administrators we need in place.

Therefore, I am requesting the Committee that this should be left to the people as we will be conducting public participation, let the people decide and maybe if we may go with approximate

census of 2016 will do u much better in place. I support and I urge Members to support it with me so that we pass it and we leave it for the implementers to do it.

As it has always been that we pass it and it's taken to the box, where it will be laying and for it again to come back maybe one year later. I'm requesting our Committee that we should be working in force, once it's passed the Committee concerned please follow up so that in two weeks' time let us know what actually is in place. Let's not again come next year when we will be going for campaigns then you are asked by the people what you did about it, it was passed, how did you go about it, why didn't you make follow up? Thank you, I support.

Hon. Deputy Speaker: Yes, Hon. Abayo.

Hon. Abayo: Thank you, Mr. Deputy Speaker, Sir. I am on my feet to make my contribution on this and let me start by appreciating that the committee has given us quite detailed information in regards to their visit, findings and comparison with what Kwale has done. They have also availed a lot of information that would be able to help the Members of this House to take the decisions that have been presumably expected out of this particular Report.

However I see a missed opportunity that this particular committee would have had on the Floor of this House today. I will draw my comments on the recommendations from the lessons that they have learnt in Kilifi.

Recommendation1 about how the Siaya County people and the stakeholders should participate from their experience but they have not stated how we will effect it. I was expecting that they would be able to make a proposal. We are talking about grass root

level so they would have gone ahead and say how we will be able to do that. Will we then be doing public participation and at what level so that we are able to reach the public? I expected that in this Report.

Number 2, which is the most critical because these are provisions of the law, the areas mentioned here are expressly set in the County Government Act. What factors to consider, in (I) the population of Siaya as stated in 2009 is given a proposal of 71 villages. I was wondering in this particular one because there are a number of proposals so which specific figure? or they left us to do the calculation.

What figure of population or range of population are they talking about and specifically narrowed to Siaya. It is not stated. It would have helped us if we wanted to talk about the population. They have given us the population as attachment, we would have then had a proposal because this particular Report was giving us entry so that we ventilate on issues that will directly fit into the bill.

Based on the population of the Wards they could have even been using the figures they could have had in mind and proposed that in this Ward we would be having this number of villages based on the population that they have given us. That is why I may have been talking of a missed opportunity that means you will be subjecting us to numbers because that ought to have come out.

I agree with the geographical factors, if we were to consider the expanse of the Wards in terms of the area that is given and if this was going to be a factor I expected a proposal because they have the area for each Ward, for each Sub County, the community interest and the historical factors. Based on experience the

committee would have proposed some of the historical factors because there are cases of Kwale people who are migrants.

We have special areas in this County like Usonga, a number of our people are staying across on the other side. These are factors we would have raised at this time because the committee had the opportunity and that would have been mentioned here. I would have expected these factors listed to guide this committee to help us take a direction to start thinking.

The other social factors are constant, if the committee expected us to think of polytechnics and health facilities these are available facilities. They would be highlighting that in this Ward we have this number. It is one area the committees would have really helped us to take a direction very fast. I want to agree with the Members on this one and specifically Hon. Ndonji.

Recommendation 3, 'must not get to be considered'. This is a very strong statement. I would have put it that, 'may not be considered' because there are areas and I think there are cases of over lapse that have been mentioned here. If you identify those particular Sub Locations and locations, in West Gem there are 3 sub locations in my Ward and there are 2 sub locations in North Gem. These are the issues we may not kill it but I just want to plead with the committee that we are able to open that particular way.

There are other factors that the committee has mentioned that for me I wonder. In recommendation 6 they are talking about their committee. I don't know why they are making a recommendation on 6 & 7 that the committee must ensure that the formation of village units will not lead to factors that they may hinder. I don't understand they

should deal with it to see how they don't get trapped in that particular process.

My last submission would be on number 8, I think we have had very good lessons from Kwale. I think the issue of whether we want to pick on Kwale as a background to developing our Bill is not a must. They have had other experiences elsewhere. We would be talking of a draft. The issues they have got they will be able to draft a Bill for Siaya and not necessarily it must be Kwale this committee says it just must be Kwale! I think our lessons are clear, one critic will be put by the Mover and others. We are long overdue we ought to have had a draft, this story must stop!

They are giving themselves as a committee 60 days to be able to bring this particular draft. It ought to have been here as at yesterday. As we are talking about this Report we would have had a perfect draft that would be saying this is available and fixed on the due process.

Thank you I want to believe that if some of these are considered I am just feeling that we would have had more proposals to be able to ventilate to inform or take a direction that can be easily viewed this is making us to start from the first discussion. Thank you. I support.

Hon. Deputy Speaker: Yes, Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Deputy Speaker, Sir, the one area which previous speakers have not taken cognizant of is the appreciation of the origins of the debate at hand. Truly the County Assembly Membership should own a lot to the late Member for West Uyoima Hon. Onduru because were it not for his statement it would mean the authorities would still be enjoying deep sense of sleep.

So number one I want to appreciate Hon. Onduru; may peace be upon him and as much as I would have wished that God would have granted him even some few days so that he would have left us when this issue would have been dispensed with.

I want to be very plain, the Committee has tried and I would have awarded them anything beyond A-. But on the way forward is my concern because the chair of Tourism and ICT has put a seal to the debate taking advantage of the deliberations by Hon. Ndonji.

1. The flow and even the purpose of the Report is very clear. We have the law concerning the village Administrators, but my worry is only one as expressly put by my previous colleagues that if you go by our finding and our recommendations we are being wordy for no reason. The two recommendations ought to have been:

- I. The Bill to be in place as soon as possible
- II. Going by the provision of Article 1 of the Constitution. The sovereignty of the people, to me what carries weight is section 2.

Public participation underscores everything, so going to the extent of telling us the number etc.; the powers lie in the hands of the people. The issue of money doesn't matter because this is a Constitutional matter and it doesn't matter even if we have 700 Village

Administrators because it is the public who wants it that way not us as leaders. So to me even number 3, like Ojwando A, Kanyaboli and Ndai areas. If you go by this recommendation it will naturally go against the principle of public participation. So I would have suggested that we give the chair the opportunity going by the weight of the debate they go and redo it such that when it comes here it will easily sail through because even in the area in which they want us to help them do their own job that the Assembly allocates them more money.

With where we are now where will that money come from to aid the work of this Committee within sixty days? We are in February it would be March and April. Where will such money come from? It means if the issue will be all about political financial of cause lack of finances. The guideline that they have even given us here of coming up with the Bill will not arise. The issue of coming up with a Bill because they have seen the Kwale thing as we recommend here is not about copy paste. Removing the name Kwale and inserting Siaya.

If at all the name of Hon. Kapombe appears there in Kwale you replace it with Hon. Oriaro of Siaya, it requires the input of technical persons. We have it that the Committee will only be taken through it and above all it is not only just about coming up with the Bill the philosophy of that Bill is what is important others are purely

technical and the Committee will not be tasked with being endowed with a lot of money to doing this. So the spirit is perfect if they have done it for us my only request is; if we adopt it the way it is we will be doing a great disservice initially to ourselves and then to the public, so let us consult further. Am very happy like the debate we had yesterday we saw the appreciation of the engagement of even the CECM education ---.

The interrelatedness of the two levels of Government even though the CECM tells us that it is the Assembly to come up with this, in the general interest of the public and as coming up with this Bill to enable other Counties just not to copy from anywhere else but from us and we must underscore that. That we bend low, there is no harm when even informally we interrelate with the executive on this so that at the end of the day the product is perfected. It will sail easily and therefore I support but with reservations. The Committee if better reconsiders through the chair recalling this matter so that they polish it, it is ours and I support.

The Deputy Speaker

(Hon. Adera): Hon. Odinga.

Hon. Odinga: Thank you, Mr. Deputy Speaker Sir. First of all I want to agree with my colleague that this Committee actually took their time and did a Report that as a County Government of Siaya or County Assembly of Siaya can rely on in terms of creation or coming up with the village Administration

units. There are a number of issues which have been raised by my colleagues but I think is that the Report is on Benchmarking and they are telling us what they saw or encountered when they went to visit Kwale in terms of Administrative unit called Administration units.

But now towards the tail end of the Report there is a mix up because they are telling us about Kwale County and as well as telling us their proposed areas on how maybe we can do ours. Which I thought maybe could have waited for the Bill as the Bill which we are talking about is to come here within sixty days. I thought maybe that one recommendation that could have been there is that we enact or draft a Bill for creation of these village Administrative units. That would have been the only recommendation, then after that when the Bill goes for second reading the Committee now comes with a detailed Report of their proposal and by then it shall have gone for public participation.

So I wonder whether if they are telling us that for example if you look at recommendation No. 8, it says if Kwale County Village Administrative unit can be borrowed. So when recommending for the borrowing already they are telling us that this Report is on Benchmarking of the Village Administrative and whatever they did in coming up with Village Administrative.

To me what I thought is that the only recommendation

would have been that this Bill should come to this Honorable House and that after that now is when the people of Siaya County will decide on which or how to create the Village Administrative unit, otherwise it is a good Report apart from the fact that there are some mixed ups here and there, thank you.

The Deputy Speaker

(Hon. Adera): Hon. Okello.

Hon. Okello: Thank you, Mr. Deputy Speaker Sir, for the opportunity to contribute on this. I will join colleagues in commending the Committee for a job well done and it's very important to appreciate the history of this because you realize that the Report goes way back to some very confusing dates. At some point we are talking of dates as early as 2014 to 2015 and to date is 2016.

At some point if you look at page 8 there is a meeting held on 1st April, 2014 on No. 1 and then if you go to No.2 it also talks about a meeting held on 10th April, 2015, that's a span of almost an exact year and I wish to draw that to the attention of the Committee so that the Member will clarify.

I want to agree with the previous speakers that the certain missing gaps in this report are particular interest to me. When you read the report in the initial stages there is the involvement of the CEC Governance, Hon. George Okello. Why this is important to me is that going forward through the recommendations and conclusions then we don't see the

input on any involvement of the CECM. This is a great concern to me for a number of reasons.

The importance of having these devolved units cannot be in vain, we need to have these units as early yesterday, as early as two years ago for obvious reasons and I am glad the Committee has observed these issues here, public participation, access to services, efficiency and all that. I am deeply concerned that if you look at the way our devolved units are operating today we do have Sub County administrators in place, all of us are aware that in Siaya County there are no offices that are least facilitated as compared to offices of Sub County administrators.

We all know the kind of efficiency that these people have to face when executing their duties. It is common knowledge that they do not even have proper monetary allocation to facilitate their activities. Recently we had Ward Administrators coming in place and their frustrations are really not different from what the Sub County Administrators are facing.

Today we are talking about having village administrators in place. If the system has not been adequate to support Sub County Administrators and Ward Administrators, how ready are we to support village administrators? And how effective are they going to be so that we just don't become people put in place, earning salaries and not able to do what they are supposed to do so that service delivery is enhanced.

I am deeply concerned that the input, the stand of the executive did not come out clear in this report as much as the CECM was involved. It appears he went for benchmarking, I saw him attend a

meeting at Jacaranda Hotel in Diani, how I would have wished to hear from the Committee what their input is. If you look at page 16, the last recommendation; The County Assembly should facilitate the Committee in terms of finances and technical capacity to draft and table a Bill within 60 days upon adoption of this report. We are all aware that yesterday the Committee on Education successfully presented two Bills in this Assembly, Bills that will be of importance to this County.

All of us are aware that the success of this was because the CECM/Executive worked very closely with the Committee of this House. I don't want to say that it is not properly thought out the Committee to imagine that the Assembly on its own is able to adequately facilitate this, we know the financial status of the Assembly rather we know the hindrances that have been there before.

I think this will be open room for another failure, another excuse for Executive not to implement this. I want to say that I am aware the budget circle for the next financial year has begun, it would have been very prudent if this Committee would have given a timeline other than the 60 days that is repeated here so that as we go to the budget circle that has started then we would put in place a mechanism that for the next financial year we would have village administrators in place, we will have their salaries and the wage bill will be taken care of.

Finally, I believe benchmarking purposes is to compare what we have and what your neighbor has. When we go to other Counties it is important to also have what we have as a template compared with what is on the other side and have a common ground on what to do. As a representative of the youth I believe this

will be another opportunity for about 70 – 100 youths to get jobs as village administrators, service delivery and information closer to the people.

Let us find the best mechanism, I will even urge the Chairman to withdraw this report for further consultation so that what we bring here will have a proper timeline, mechanism, proper way forward that will lead us to have a Bill even in shorter than 60 days, even in the next 10 or so days that a draft Bill should be taken to the stages so that by the time we have these 60 days, we will be having a final Bill going for 2nd and 3rd reading. Thank you.

Hon. Deputy Speaker: Hon. Willis!

Hon. Ochieng: Thank you, Mr. Deputy Speaker, for having given me this chance. First I want to thank the Almighty God for having granted the Committee journey mercies to Kwale for benchmarking.

(Applause)

I want to believe that we are here because of the mandate given by the Constitution and we must know that as much as we are here we are the pioneers of this County Assembly and we must put everything in place to work for us well so that our people/community should benefit from devolution. For our Committee to go for benchmarking in Kwale on how to form Village Units in our County, that is a plus to our County Government and to the people of Siaya. This will create job opportunities.

I want to believe that in Siaya County we have more than 8 village administrative units and how I wish we could have had them within our first year.

I think a lot of money has been used in unnecessary activities within this County because we have no people to utilize these monies as salaries and this is giving the Executive a wider space of misusing public money in other things that are irrelevant.

The report we are given here is what the Committee found in Kwale but I believe that Siaya County has got all ways of doing things. We should be guided by this report, we should learn from Kwale on how we can make our County to be the best. As we wind up 2016 financial year, it is upon the Committee to come up with this Bill so that we also have it budgeted for. Otherwise I thank the Committee and urge them to come up with a Bill as soon as possible. Thank you and I support.

Hon. Deputy Speaker: Hon. Booker!

Hon. Minami: Thank you, Mr. Deputy Speaker. First I want to thank the Committee for the work that they have done and the kind of report that they have brought before this House. The Committee was answering a question that was raised by a Member and the question is stated here to know why there is a delay in recruitment of Village Administrators. The Committee has gone ahead, even to give more information on things that were not even asked and I am really perplexed why our contributions is like we are condemning a report which has given us an eye opener on what we should have done two or three years back Mr. Speaker.

One thing that this Committee maybe did not do, the Committee did not answer the question in this report as it was asked, ‘why do we have a delay?’ I have not seen that answer in this report but the Committee has gone ahead to give us so much that as a County if we can take---

Mr. Speaker, a Committee report with its entirety maybe we might not implement but in this report we have very important issues that have been raised, let us pick on them. Dismissing this report or rejecting or demonizing this report when we don't have any other, which report do we have apart from this one?

There is none in this County, so I think as Members, let us appreciate; let us instead of delaying in the passage of this report, it is within the mandate of this House to make sure that the County of Siaya has Village Administrative units.

Hon. Ngunjiri: Point of order, Mr. Speaker.

Hon. Deputy Speaker: What is your point of order?

Hon. Ngunjiri: Mr. Speaker, listening to previous contributors to this Motion, all of them have said they support this report, and now the speaker stands up, the Member stands up and he is saying that the report is being condemned, so now I am lost, where are we? Is it being condemned, is it being rubbished? Whilst everybody standing up here has said that they support the report. Please, we need your guidance.

Hon. Deputy Speaker: I think the Members who have spoken before were airing their views, however much they gave their support, they were also criticizing and I believe that is what the Member is referring to. He has not said that they don't want to pass or they want to pass but just to revoke the critic the report has received in the Assembly. I think he is in order. Hon. Booker, proceed!

Hon. Minami: Thank you, Mr. Speaker, for your guidance. As I was saying, that it is within the mandate of this

Assembly to make sure that the County Government of Siaya has in place an Act that will make sure that the Administrative Units are put in place. We don't need a Committee report, what we need is a Bill.

Why were we waiting for a question to be asked so that we come with a Bill? So we don't need to say anything about the report, it is our mandate, we have failed as a House and it is high time that we accept and make sure, whether this Bill is going to come from an individual Member, whether the Assembly will come up with a Bill, it is within the mandate of our Assembly where we are here to make sure that we have a Bill that will give birth to Village Administrative Units.

Mr. Speaker, what is important here, I think Hon. Walter alluded to it, we have the Ward Units, we have the Sub County Administrators, we have the Ward Administrators, how is their functionality being funded? Are they functioning according to the will of the people or are we going to create Units that are just there to draw salary from the County coffers or as much as they draw salary they are going to offer service---after being paid. As things stand by now, we have Ward Administrators who are just loitering around, they don't have work to do, they have not been given money to help them in performing their functions. Now we want to have Village Units, what are we going to have?

As a County, we are now in the process of making the budget, first of all, can we make sure that we have functioning Ward Administration offices; we have functioning Sub County Administration offices. I am not against the creation of these offices, but what I am against is creating all offices that are not going to be beneficial to the people whom they were

supposed to serve. Because if you go to the office of Ward Administrator, in fact some of them don't have offices, do they?

You find them nowhere, some of them are not even supported in terms of movement so that they make sure that the activities or the projects that are within their jurisdiction are being done according to what the law states. It is within the mandate of this Assembly to allocate money to make sure that devolved units from the Sub County Administrator to the Village Administrators if we are going to have them are well funded so that they function in the correct manner.

Mr. Speaker, we are coming up with a Bill, we are supposed to come up with a Bill to bring into pass the Village Administration, where are the experts? At the moment we are told about the Kwale County having passed one, I think that is what we have at hand, something that we can look at and as Hon. Oriaro has said, it is a matter of pasting and copying, so that we can have ours.

What is important at this juncture is that as a County Assembly we have been given an eye opener, we have been told how some County somewhere have done theirs or they have come up ---, so it is upon us to look at the good of what that County has done so that we can improve on that, so that whatever we are going to come up with in future forms a basis of an administrative unit that is going to function in a manner that the people or the communities that we serve are going to be appreciative.

Mr. Speaker, finally, I want to call upon this House to make sure that these units are put in place before the term of this House ends, in the next 15 months. As an Assembly let us work hand in hand if it is possible with the Executive so that

we come up with this Bill to make sure that even if it will not be operational within this term but the new Government that is going to come in place is going to find a Bill and it is going to find an Act that is already in place and they will have a duty to implement. I thank the Committee and I support this report. Thank you.

Hon. Deputy Speaker: Hon. Ombee!

Hon. Ombee: Thank you, Mr. Speaker, Sir. May I take this opportunity to congratulate the Committee for a good work done. I rise to support the report on Village Administrative Units. If you go through the recommendation of the Committee, No. 5 says that, the Siaya Village Administrative Units should be in place within 60 days after the adoption of this report for operationalization of the same within the County. We need the Village Administrative Units as soon as yesterday, you know that the County Government structure does not include the provision of Village Administration and they are ---for the fail of the County Government.

The Provincial Administration continues frustrating our people that if you want them to sign for you any document you must pay something small. If we want to stop this, we must have Village Administrative Units to assist the Ward Administrators in the Wards. The Village Administrators and the Ward Administrators are the people who will take place over the work of the Chiefs and Assistant Chiefs. I support the report, thank you.

Hon. Deputy Speaker: Hon. Ngure!

Hon. Ngure: Thank you, again Mr. Speaker. I stand to support this report. I just wonder why in Siaya we always

struggle. This report is coming so late for consideration. We go for benchmarking and we find that our counterparts in those areas are already well advanced, they have well setup Village Units. The drafters of the Constitution and therefore the Section of devolution saw it wise to include the matter of the Village Units to be set up. One, it gives us some sense of order in running our Counties.

Two, it sets up, as we hear and we know jobs for our youths to also get involved in our Counties and yet it becomes so difficult always that a thing like that will drag and drag. Right now as we speak, we still fear that even with this Bill coming up it might never be operational as soon as it should have been, it is said here that it should have come up some two years ago. The main reason that we always never set up or get up running with what we should do in our County is perhaps to find finances to run this Village Units and many others.

Why don't we ever get this thing right? If we now set up the Village Units--it is also very important that the money that the budget is created for this Units to run. As Hon. Oriaro said, we don't even have to be worried about this particular Bill because it is something that we came in this House knowing we will be working on a Bill to set up the Village Units. We don't have to be worried; we now have this report, if we did not know some of the things that we could do to set up our own Units, we now have this report to help us.

I stand here to support the report so that we can set it rolling, have the Bill so that the Village Units can be set up Mr. Speaker, because this is what we need, we need to start the process, we need to set up the Units, we need to make sure that the funds are there to run the Units. We can

say all sorts of things but if we are not prepared with the key things to start the process, to set up the Units and to make them work as we set up the funds for the Units then we would have been debating here just for the sake of debating.

I appreciate and I thank the Committee for going round, for making sure that our eyes are open even in the areas which we did not know but I also urge as we have done in this House many times that a process like this started should be implemented and should be operational otherwise it will not be useful. I thank you.

Hon. Deputy Speaker: I now wish to call upon the mover to reply, it is like Members have exhausted on the same.

Hon. Awour: Thank you, Mr. Speaker, I want to thank you, and I want to really thank the Hon. Members because I have looked at the mood of the House and I just want to highlight on the issues that were raised. Number one, the citation of the County Government Act Section 48(1)b and not the one that you questioned, I want that to be expunged from the records of this House. Mr. Speaker. Another thing that was raised by Hon. Ndonji, Hon. Ndonji has 6 Sub Locations and not 5 as indicated.

Hon. Deputy Speaker: Okay, we are in a learning process but procedurally you may not ask that a section be expunged after contributing but because it is a technical part, we cannot allow to go on record that we allow that section, so I think we can treat it as a typing error, so the clerks will correct it after this. It is something which may change the substance if at all we leave it that way. Just indicate that it is Section 48(1) of the County Government Act and not Section

176 of the Constitution, I think that will help us.

You know records that come from this Assembly will be used in future and if such a technical error can be seen, people will be wondering which Assembly passed this, so I think you have done the best thing to request that it be ex punched but instead of ex punching it, we treat it as a typing error. Thank you.

Hon. Awuor: Thank you, Mr. Speaker, for that guidance. The Hon. Booker said that Hon. Onduru's Statement was the one that we were benchmarking on, I want to say here that the Statement of Hon. Onduru was answered here before we went to Kwale, so I had just put that Statement as a guiding fact that made us also to go to Kwale to have a look on what we have done. I want to correct that Hon. Onduru's Statement was answered here properly.

Hon. Deputy Speaker: In short you are denying that Hon. Onduru's Statement did not give you an air ticket to go to Kwale?

Hon. Awuor: This was a Statement that was used as a benchmarking mission that took us to Kwale and I think we have learnt some of the best practices there and I want to say the proposal to have the Village ---. I want to assure the House that my Committee with consultations with the Clerk's office and the Speaker's we are going to work on a Bill, taking into consideration the best practice that we have learnt there.

Mr. Speaker, we went to Kwale because when we were in Kisumu during the Devolution Conference last year, Kwale County was given as an example as a County that has established Village Administration Units and we confirmed the same. I don't want to bore the House

but I want to thank them for their contributions and I wish that through their contributions that I have seen we are going to have this report passed. Thank you.

Hon. Deputy Speaker: At this point, Hon. Members, allow me to put the question that this House adopts the report of the Sectoral Committee on Governance and Administration on Bench Marking visit to Kwale County Assembly on the --- Establishment and Operationalization on the Village Units laid on the Table of the House today Wednesday 17th February, 2016.

(Question put and agreed to)

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, we have exhausted our morning session Business and therefore the House adjourns until 2.30 p.m.

The House rose at 11.30 a.m.

WEDNESDAY, 17TH FEBRUARY, 2016

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

[The Temporary Speaker (Hon. Abayo) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

DEFERMENT OF A REPORT

The Temporary Speaker (Hon. Abayo): Hon. Members, I wish to convey that on the Order Paper we have Motion number eight and this House ought to approve a Report on Committee on Public Works, Roads, Transport and Communication. I wish to confirm that the Report is ready, this was a Report that had been discussed in this House and it was deferred for obvious reasons. The Committee has looked at that Report; it was talking about a draft policy. That policy was given to Members sometime back but seemingly the Members don't even have that copy.

Thirdly, following the training that we had, it was explicit that policies would be brought to the Assembly for information and not for discussion. I wish therefore to state that the House would not go ahead to deliberate on this particular Report in line with the draft policy and I want to direct that the Committee engages with the Executive on their findings or provisions that have been discussed so that the Executive can come up with a final draft that can then be brought to the Assembly for information.

In short therefore, Hon. Members, we will not be having any other business but I wish that we therefore cancel the Motion number eight and continue with the rest, from seven we will be able to go to nine. Thank you, next Order!

ADJOURNMENT

Hon. Minami: Mr. Temporary Speaker, Sir, and being that there is no any other agenda to be debated I wish to ask the House to adjourn until tomorrow at 2.30 p.m. I will request Hon. Oriaro to second.

(Hon. Oriaro Seconded)

The Temporary Speaker (Hon. Abayo): Hon. Members, an adjournment Motion has been Moved and seconded. I wish to propose the question that this House adjourns until tomorrow at 2.30 p.m.

(Question put and agreed to)

The House rose at 2.44 p.m.

THURSDAY, 18TH FEBRUARY, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER**COMMUNICATION FROM THE CHAIR****APOLOGY FOR LATE START**

Hon. Deputy Speaker: Hon. Members, we apologize for the delay. This was caused by some technicality. There was...earlier but some Members had brought in Statements a bit late. And, that caused us to prepare new Order Papers. We apologize once again.

Next Order!

QUARTERLY FINANCIAL AND BUDGETARY REVIEW REPORT

Hon. Deputy Speaker: Hon. Owii
Hon. Owii: Mr. Deputy Speaker, Sir. I want to lay some Papers before the House. one; Paper on Submission of Quarterly Financial and Budgetary Review Report, 2nd quarter ending 31st December 2015. Secondly, I will issue...just a minute.

Hon. Deputy Speaker: You are allowed

(Hon. Owii laid the document on the Table)

Hon. Deputy Speaker: Hon. Okello

RECRUITMENT OF ECDE TEACHERS IN THE FINANCIAL YEAR 2014

Hon. Okello: Mr. Deputy Speaker, Sir; on behalf of Chair of Education Committee, I would like to report on

recruitment of ECDE teachers in Financial Year 2014.

(Hon. Okello laid the document on the Table)

Hon. Deputy Speaker: Where are other Clerks? You cannot operate here alone.

NOTICE OF MOTION**RECRUITMENT OF ECDE TEACHERS IN 2014/15**

Hon. Deputy Speaker: Hon. Okello, do you wish to issue a Notice of Motion?

Hon. Okello: Thank you, Mr. Deputy Speaker, Sir; I wish to give a Notice of Motion that this House adopts the Report of the Education Committee that this House Financial Year 2014...

Hon. Deputy Speaker: Thank you; any other Notice?

Next Order!

STATEMENT**DECENTRALIZATION OF THE WARD ADMINISTRATORS OFFICES**

Hon. Deputy Speaker: Hon. Elisha!

Hon. Okuku: Thank you, Mr. Deputy Speaker,. I wish to seek a Statement from the County Executive in the County Executive, a Statement on decentralization of Ward Administrator offices. Aware of provisions of Article 174 (c) of the Constitution of Kenya, 2010 which states the core objects of devolution and those of Article 175 (b) which gives

assurance on resources availability to fulfill the intended projects.

Further aware that Section 51, 1, of the County Government Act 2012 establishes offices of Ward Administrators which by implications and by spirit, by a letter of devolution should be based within the boundaries of specific wards.

Mr. Deputy Speaker, it concerns that most ward administrators in this County, are still based at the Sub county offices instead of the ward levels. Further concerns that the same ward administrators' use their own resources to access wards from the Sub counties despite adequate budgetary allocation for such facilitation deeply concerns that these arrangements are practices that negates the very existence of a County Government and infringes on the Siaya County residents right to access devolved services.

Mr. Speaker, Sir, I would love to know from the Executive;

- i) Why more than three years of existence of Siaya County Government, ward operations have not been devolved?
- ii) When will the ward offices and operations will be decentralized to the ward levels?
- iii) Why in the present arrangement no facilitations is given to the Ward Administrators to perform their official duties. Thank you.

Hon. Deputy Speaker: Thank you, the Chairman of Administration and Governance. How much time can we give you to come up with the required Report?

Hon. Awuor: Thank you, Mr. Deputy Speaker, Sir; I think we should be given three weeks. I think that will be important because there is an issue related to same. So, given three weeks; we are

going to work on it. And also look on how we can consolidate promptly.

Hon. Deputy Speaker: According to our Standing Orders you should work on it within 21 days, three weeks is equal to 21 days. So, we are hoping the report will be ready within the three weeks period.

Hon. Awuor: Most obliged.

Hon. Deputy Speaker: I can see hon. Oriaro with a Statement

Hon. Oriaro: Thank you, Mr. Deputy Speaker, Sir; as in the Order Paper, part B, I do arise to request a Statement from the Executive on the Construction of a Sugar Milling Plant at Udongi area, by Dominion Funds Limited incomplete disregard of resolution of this House.

Whereas a Report was tabled by the Joint Committee of Agriculture, Tourism, Water and Delegated Legislation of Yala swamp and adopted by this House in December 3rd, 2015, and whereas none of the recommendations of the said Joint Committee Report is yet to be implemented and, whereas, one of the cardinal recommendations was the cessation of construction of sugar milling plant within Yala Swamp aware that the well thought recommendations by the Joint Committee directed how the swamp should be managed so that;

- a) the just welfare of the said communities and prospective investors together with that of the residents are taken care of
- b) The natural ecosystem of the swamp is conserved and sustained for prosperity and, concerned that a 500acre sugar plantation has been established and construction of a sugarcane milling plant is ongoing at Udongi area on the reclaimed part of the flat plain of River Yala in Alego Usonga and Bondo Sub counties, by Dominion Farms Limited.

Further concern that the construction has been ongoing before, during and after the Joint Committee met the Kadenge during the investigations in complete disregard of the resolutions of this legislative House and a cursor to potential impunity by the implementers; Mr. Speaker, Sir, we, hon. Madialo for Usonga and hon. Elisha for East Yimbo and I for Central Alego being on the other side received people receive the following within seven days;

- i) What steps have been taken towards implementation of recommendation of the report adopted by this House on 3rd December, 2015 here in aforementioned?
- ii) Was there any licensing of the ongoing construction of the sugar factory by NEMA ()?
- iii) Were statutory approvals by the County Government of Siaya for the initiation of the cane plantation and construction of the sugar factory by Dominion Limited obtained?
- iv) Is the said Sugar Factory duly registered by the Sugar Directorate under Agriculture, Fisheries and Food Authority?
- v) Have the people of Usonga, Yimbo East and Central Alego wards who are directly affected by the intended project been consulted by way of public participation? If yes, the evidence of the said participation be availed as an attachment to the sort response.
- vi) Has the legal framework for the setting apart a trust lab

for the purposes of utilization been compiled?

Thank you, Mr. Deputy Speaker.

Hon. Deputy Speaker:

Thank you, from the record of this Assembly, this matter had been dealt with initially by Joint Committee on Agriculture, Tourism and Water and Delegated Legislation. I will direct that the said committees to handle this matter once again and to bring us a report within two weeks. I know it is a matter of emergency. Therefore, I think two weeks should be adequate. Hon. Awuor!

Hon. Awuor: I want to seek your indulgence on the position now on the Ad hoc Committee which the Committee had handed over their report in this Assembly.

The Assembly having accepted the report, I want to believe their mandate should have ended on that date. So, I want to seek your indulgence unless you ...

Hon. Deputy Speaker:

When an Ad hoc Committee was formed its mandate expires automatically after they handed in their report. And, now that I have directed that the three committees handle the same, which means that I am reconstituting it. Thank you.

(Applause)

Anymore Statements? Hon. Apiyo Apiyo

REALLOCATION OF FUNDS FROM COUNTY EXECUTIVE

Hon. Apiyo: Thank you, Mr. Speaker. I would wish to issue a Statement on Reallocation of Funds from County Executive. Aware that the Public Finance Management Act, Section 149, 1 requires a County, Accounting

officer to be accountable to the County Assembly by ensuring that funds are used in a lawful, authorized and transparent manner.

Further aware of an allegation of transaction that occurred in the Executive Arm of the Siaya County Government where Ksh92 million was reallocated from the Health Service Vote to the County Executive Vote via payment voucher No.14895 dated 27th June, 2015 without the approval of the County Assembly.

Mr. Speaker, noting that this allegation amount was relocated to be used for travel allowances and related purposes in the County Executive Vote, deeply observed that the alleged relocation of funds from essential health services in this County, where this Assembly has had questions of poor quality of services offered to citizens is a gross violation of Section 117 of part 1 of the County Government Act, 2012.

Mr. Speaker Sir, I would like to know for the officers responsible at the Executive; the truth behind these alleged relocation and if true; what measures have been put in place to fill the gap left in the Health Sector, Mr. Speaker, I would further request a Statement of payment minute from equipping County ECDE() sectors. Aware of the reality that the Siaya County ECDE sector has been talked of controversy in terms of financial and personnel management issue that has been made and discussed on the Floor of this House.

Concerned, that they have seized to be no end to problems surrounding this sector. This House approves our budgetary allocation to equip our ECDE sector in about 30 wards. However, evidence from

the ground indicates that there is no has been bought in any center in this Financial Year.

Yet, Kshs38 million has been paid to a business named Siaya Jua kali Umbrella for having supplied tables and chairs to the said centers. Noting that it is illegal and complete disregard of public procurement procedure to pay for goods and services not rendered.

Deeply concerned that the future of the children in this County is being auctioned by the people paid to sector, secure and protects them; I would like the officer concerned in the Executive to give answers as to why these payments were made and from which allocation.

I would also like to know measures that are in place to ensure that our ECDE centers are managed in transparent manner.

Hon. Deputy Speaker:

Hon. Members you are aware that we have not constituted Finance Committee or rather our Finance Committee has not been divorced from the Budget Committee. Therefore, Budget and Finance Committee are the same. I direct that this matter be dealt with the Budget and Finance Committee. I am not seeing the Chairman; the Vice is also not in. Is there any member of Financial Committee?

How much time can we give you?

Hon. Osuri: Mr. Deputy Speaker, we will require more time than the 21 days.

(Laughter)

Hon. Deputy Speaker: I will give you three weeks.

Then the second Statement will be handled by the Committee of Education, Gender and Youth Affairs. Yes, Hon. Rosemary!

Hon. Ogutu: Thank you, Mr. Deputy Speaker, Sir. I am in disagreement with your ruling because this issue should be treated with a lot of urgency. Three weeks is a very long time.

Hon. Deputy Speaker: Hon. Aneme has indicated that there tray is already full with other matters. Hon. Aneme, can you work with two weeks?

Hon. Aneme: Okay, I can work with fifteen days.

Hon. Deputy Speaker: Please try and give us the report. This is a matter of urgency and the people of Siaya would want to know what happened. This is their money and they have a right to know.

(Hon. Oriaro spoke off record)

No you are out of order. In the Order Papers we don't have any— point of may I know.

(Laughter)

Okay, what did you want to say?

Hon. Oriaro: Mr. Deputy Speaker, I just wanted to know whether it is 15working days or fifteen days starting from today including the weekend.

Hon. Deputy Speaker: When counting days, we usually count working days minus weekends and public holidays. Okay?

Hon. Oriaro: Mr. Deputy Speaker, I am on a critical observation; being that this matter borders on investigation, and we have added PAC (Public Accounts Committee)...

Hon. Deputy Speaker: You are out of Order, you don't have any---

(Laughter)

What did you want to say?

Hon. Andiego: I just wanted to know if its 15 working days or 15days from today?

Hon. Deputy Speaker: When counting days; we normally count working days minus weekends and minus holidays.

Hon. Oriaro: Mr. Deputy Speaker, Sir; I have a critical observation being this matter borders on investigation, Public Accounts Committee will be better placed as we amen to our Standing Orders that they be accorded this opportunity.

Hon. Deputy Speaker: Hon. Oriaro, recently we took you to training in Kisumu and you should be better placed to know that PIAC is not the right Committee to handle this matter.

Hon. Oriaro: I thought you donated the opportunity to us.

Hon. Deputy Speaker: No, it's a matter for debate by the Finance Committee, so 15days Hon. Aneme. We can proceed. The other one I directed that it should be handled by Education Committee but I have not seen the Chair.

Hon. Gare: We have an acting Chair, Hon. Okello.

Hon. Deputy Speaker: Hon. Okello we will give you two weeks, we need the Report within those two weeks.

Hon. Ngure: Mr. Deputy Speaker, Sir; though I don't know the timeline for these Reports to be written, one time you said 3 weeks another time you said 15days. To me if its 15 working days that is still 3weeks and now you give 2weeks to Hon. Walter to prepare that Report, how days are those?

Hon. Deputy Speaker: You count the number of working days which gives us two weeks.

Hon. Ngure: Therefore 15days given to Hon. Aneme is 3weeks and that was---

Hon. Deputy Speaker: Ok, let us not work with weeks now let us work with days.
Next Order!

STATEMENT TENTATIVE BUSINESS

Hon. Owii: Thank you very much, Mr. Deputy Speaker, Sir; protect me from the loud consultations.

Hon. Deputy Speaker: You are protected.

Hon. Owii: I want to put a Statement or Notice Paper that is tentative Business for Tuesday, 23rd February, 2016 to Thursday, 25th February, 2016, published pursuant to Standing Orders 36 (1).

It is notified that the House Business Committee, at their last meeting, approved the following tentative business to appear in the Order Paper for Tuesday, February 23, Wednesday, February 24 and Thursday, Friday, 25, 2016:-

Tuesday, February 23rd, 2016,
Report of the Committee on Appointments on vetting of nominees to the office of the County secretary and the CECM in charge of Health services.

Report of the Committee on Public Works, Roads, Transport and Communication on vetting of the County Executive Nominee to the office of Chief Officer, department of Public Works, Roads and infrastructure.

Wednesday, February, 24th 2016
(Morning Sitting) Report of the Select Committee on Public investments and

Public Accounts on the Petition by the Siaya Consultative Forum.

Wednesday, February 24, 2016
(Afternoon Sitting) Report of the Select Committee on Budget on delayed payments to contractors in Central Gem.

Thursday, February 25th 2016,
Report of the Select Committee on Delegated Legislation, Justice and legal Affairs on benchmarking visit to the Senate, Nairobi in November 2015.

MOTION

RECRUITMENT OF ECDE TEACHERS FOR FY 2014/15

Hon. Apiyo: Thank you, Mr. Deputy Speaker, Sir; my Committee was to Table this joint Report on health services and Public works, roads, transport and Communication in the afternoon on Public Petition from Central Alego Ward, Siaya County on the status of the newly constructed Uhembo, Kanyaboli and Osero Community Health centers laid on the Table of the House on Tuesday 1st December 2016. There is a technical issue with the Committee Clerk; he wasn't around so even the Hon. Members don't have the copies of this Report. I would request that we can't proceed with the discussion because we don't have the Report; I want to request that I present this Report on Tuesday in the afternoon.

Hon. Deputy Speaker: I remember Hon. Apiyo this is the third time we are deferring this matter, I don't know why you have to keep on deferring; I wish you could share with us that technicality so that we know and see if at all it is worth considering.

Hon. Apiyo: The problem came with the Committee Clerk through our

Clerk, I really wonder why they slotted it for today and Members don't have copies. Suppose I proceed with the discussion most of the Hon. Members will complain that they don't have copies and this why I'm requesting that we should discuss this Report on Tuesday in the afternoon.

Hon. Deputy Speaker: I don't think we need to blame the Clerk because they inserted it in today's paper since you requested that it be deferred to today and that is why it's there. However it is in the interest of this House that we defer it until such a time when the copies will be availed to Members and kindly Tuesday should not pass. Let us have this Report discussed on Tuesday afternoon. Hon. Okello.

Hon. Okello: Thank you, Mr. Deputy Speaker, Sir; I beg to Move that this House adopts Report of the Committee on Education, Youth Affairs, Gender and Social Services on the Recruitment of ECDE teachers in FY 2014/2015 laid on the Table of the House today Tuesday, 18th February 2016, and I request Hon. Osuri to Second.

Hon. Osuri: I'm on my feet to second.

Hon. Deputy Speaker: I propose that question that this House adopts Report of the Committee on Education, Youth Affairs, Gender and Social Services on the Recruitment of ECDE teachers in FY 2014/2015 laid on the Table of the House today Tuesday, 18th February 2016.

Hon. Okello: It is my honor and pleasure to present to this Hon. House, the Report of the Education, Youth Affairs, Gender and Social Services Committee on the recruitment of EDCE teachers in the FY 2014/15.

The Committee's mandates are;

Investigate, inquire into and Report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;

Study the programme and policy objectives of departments and the effectiveness of the implementation;

Study and review all county legislation referred to it;

Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;

Investigate and inquire into all matters relating to the assigned departments as they may deem necessary and as may be referred to them by the County Assembly;

To vet Report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Orders 185 (committee on appointments); and

Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

This Committee held consultative meetings with the CEC and Co-Education and the Public Services Board Chairman with a view of establishing the determinants which were responsible for the delay in recruitment of 800 ECDE teachers as had been budgeted for in the 2014/15 FY.

From that interaction there were submissions by the CECM and CO-Education; the CECM and CO – Education informed Committee Members that in the 2013/15 eighty additional new blocks were to be constructed. At the close of the year, over 87% of the ECDE centres had been contracted and contractors taken to site.

The first batch of 64 ECDE centers constructed by the County Government were not furnished nor equipped. The CECM/CO – Education pointed out that there was an urgent need by the County Government to improve the functionality of all newly constructed ECDE centers by furnishing and equipping them.

The CECM/CO- Education informed Members that in the 2014/15, the County Government set aside Kshs. 96million to recruit 800 ECDE teachers. The intention was to provide at least one teacher to the 691 (including 10new ECDEs) ECDE centers in public primary schools across the County. By the first quarter of the financial year it became apparent engagement of the teacher would not materialize. In March 2014, Kenya National Union of Teachers (KNUT) went to court to stop County Governments from recruiting ECDE teachers because they believed it was their constitutional mandate.

The County Government made various attempts to circumvent the court order in a bid to recruit the teachers thus; they:-

- Developed the ECDE Bill in order to provide for the recruitment of ECDE instructors and not teachers.

- Forwarded a request to the County Public Service Board (CPSB) to recruit 210 ECDE instructors in April 2015. The County Public Service Board (CPSB) to recruit 210 ECDE Instructors in April 2015. The County Public Service Board subsequently advertised for vacancies for 201 ECDE Instructors.

- In July 2015, the Chairman of the Board transferred the responsibility for the recruitment of ECDE to the Department of Education.

The Department of Education adopted the Cabinet recommendation that the County engages instructors working in the ECDE centres constructed by:

- The County Government

- Partners such as UNICEF and PLAN Int. and the 2 centres inherited from the defunct local authority

The CECM/ CO- Education pointed out that they engaged the Ward Administrators and ECDE Officers to assist them in data collection of ECDE teachers within the County. They informed Members that they had projected that by 5th of October 2015, the process of data collection would be completed and the instructors were to be brought on board before end of October 2015.

They informed Members that the County Executive had planned to engage a minimum of 450 ECDE teachers in the 2015/2016FY of varying qualifications. The breakdown of the current number of 1965 ECDE teachers with varying qualification are as outlined in Table;

The CECM/CO- Education informed Members that the initial targeted number of instructors for recruitment was 800. Due to budgetary constraints, the Cabinet made decision to stagger the recruitment progressively until the target number is met by 2016/17FY. They explained that the Department of Education plans to continue with the process of recruitment in the subsequent years as depicted in the Table 2. In order to support this noble course, the department of Education will make budget provisions for recruitment of ECDE teachers in the subsequent years.

On the matter of budget allocation for payments of ECDE instructors, the CECM/Co-Education explained that the Department reviewed the issue of

recruitment of ECDE teachers in September 2014 when it became apparent that the case in court was not ending soon. They proposed a revision of the budget in order to address serious logistics challenges including but not limited to:

Execution of the bursary program, inadequate office equipment, transport hiccups faced by the department.

Besides, the Executive also appropriated funds for tree planting and digging of a borehole as depicted in Table 3.

The CECM/CO- Education clarified that the revision sought for through the first supplementary budget would reduce the 96M budgetary allocation for the recruitment of ECDE teachers in the 2014/2015FY by 24Million.

Hon. Temporary Speaker (Hon. Ngunjiri): Yes, Hon. Oriaro

Hon. Oriaro: Thank you, Madam Temporary Speaker; I rise to give a nod this Report. We have always been chastised in public by His Excellency the Governor that we do not know our role of oversight. To some extent he has even gone personal by saying that Hon. Oriaro has a lot of English that he is not making use of in the House and to that extent I want to make good use of the Queen's language.

On page 8, there is a table on appropriation of part of money meant for the recruitment of the ECDE teachers. The law is very clear on issues of Governance courtesy of the 2010 Constitution and the statutes thereof whether County or National Government in so far as the Budget making process is concerned. Budget must be program based in principles right from the Budget making

cycle culminating in the adoption of the Budget and Appropriation law.

If the citizens have opted that they do an item as a project, it has to be of a tether to some certain amount strictly for that item. That is indeed what this House had done in consultation with the public but we have learnt here that there is an implementer at the Executive who needs to be taken for seminars. Of course they have been going on and on to do seminars. What does this tell us? There is no shortcut. The leadership of the County must be held accountable.

We want to know why for instance trees were planted illicitly. Could be that it was legitimate though they did it outside the law. We have got 30 Wards and if the trees were planted at Kadenge for my case Central Alego it must be known. What was the Budget? How was it done? And where are they? This one has to be proved failure to which this amount must be recovered. They talk of drilling boreholes, equipment, fabrication and installation. Was this in the Budget? A Budget that was program based and in the education sector we want to know where? What informed this? Was it worth?

Let me go back we have got the Kenya Forest Service, who are the technocrats in giving guidance in so far as matters of forestry is concerned? We will want to know what Kshs. 7.5 million can do because they are the people who should be sought when all these activities are done.

It is very clear, we support the document but since we want to meet some ends for instance you can see in the recommendations that a Committee of PIAC is mentioned and we know what the law says it should be the committee of Finance coming in at this stage so my wish

is so simple that we adopt this document with some amendments we may refer to them as typo graphical mistakes if we cannot call them amendments so that we make this thing very solid.

As I conclude the statistics have been given out by the current County Government but the other projection of 1600 personnel to man the ECDE centers that is by 2019/2020 is it captured in such documents like the CIDP. And how do we know because Governors the way it is goes by the policies of the existing Executive do they know that they will be in government in that year? Thank you.

Hon. Temporary Speaker (Hon. Ngure): What is your point of order?

Hon. Ombee: Thank you, Madam Temporary Speaker, is it in order for the Committee Chair to Table the Report which was not signed by the committee members?

(Loud consultations)

Hon. Oriaro: Thank you, Madam Temporary Speaker; those are the typo errors I was talking about. That would be an optical error on the part of the Member. He is not using reading glasses so it could be an optical error.

Hon. Temporary Speaker (Hon. Ngure): Hon. Ombee and Hon. Oriaro, could the both of you please give space.

Hon. Awino: Point of order!

Hon. Temporary Speaker (Hon. Ngure): I need to give information just received whereas most of us may just be aware but the statutes have changed. If the Chairman and the Secretary sign a Report then that suffices.

(Applause)

We have both their signatures here. We can continue without need to amend or correct typos.

Hon. Oriaro: Thank you, Madam Temporary Speaker, just in brief as I wind up. Table 2 on page 8 projected employment of instructors in the approximately 700 ECDE centers. We always know that issues of governance are a function of policies of current government and the projection goes to the FY 2019/2020.

There are chances that the current government may not see the light of the day during that time. On such grounds we want to also know whether persons who originate from such like are they really genuine and competent.

I support but with one observation that if there exists typos let them not be adopted with silent amendments.

Hon. Temporary Speaker (Hon. Ngure): Yes, Hon. Gare.

Hon. Gare: Thank you, Madam Temporary Speaker; I am also on my feet to support the Report with reservations.

I am worried about recommendation number 1 that is talking of PIC and PAC committee to investigate the utility of Kshs. 24 million. How I wish we could change this so that we take this to the Committee on Finance because as we are all aware that the committee of PIC and PAC cannot do this type of investigation not unless it was an audit Report.

(Applause)

Apart from that I totally agree with this committee on Education with the kind of Report that they have brought. It is a pity that it is being said that the intention of the Executive was that among the 691

ECDE centers that were in the county at least 1 ECDE teacher was supposed to be recruited.

Unfortunately as we speak today there are cases for instance in my Ward where in 2013/2014 we had 2 ECDE centers. Instructors have been deployed in one and leaving the other one. One has 24 pupils and 3 teachers while the other one does not even have one. You realize these instructors are paid Kshs. 10,000 and again some of them are coming East Yimbo far end to come and teach in West Sakwa. It is common even in other Wards. This person is going to spend transport coming morning and evening and yet you are paying him/her Kshs. 10,000. It is a pity!

We are saying that there are things which have been happening in this County that as the people who are doing the oversight role we need to come together and fight it because there is no way somebody will come and tell you that tree planting was done with Kshs. 7.5 million. I come from West Sakwa Ward and I have never seen anywhere in my Ward where trees were planted. Do you want to tell me that the Kshs. 7.5 million was used in other Wards and yet we have 30 Wards within the County?

I want to support the Report but my fear is where we are taking it after passing it. If we direct this Report to PIC and PAC nothing will come out. It is a dead Report. I want to recommend that we pass the Report but we amend it.

Hon. Temporary Speaker (Hon. Ngure): Hon. Gare, perhaps we need to learn from you the reason that we are giving this Report to the Committee on Finance and not Committee on PIC and PAC. We need to be clear on what the reason could be. Is it that they are not

capable or the law does not allow them to further investigate this Report? Please make it clear.

Hon. Gare: Thank you, Madam Temporary Speaker, following our training that we had in Kisumu how I wish you were there but if you were there then we learnt very well that the PICK & PAC is not a Committee whose mandate is investigation, they can only investigate what comes from audit but not from a Committee.

Hon. Temporary Speaker (Hon. Ngure): Now that's clear, so continue.

Hon. Gare: So for that purpose I was suggesting that we pass the Report with an amendment that we take this Report to Budget and Finance Committee and I want to call Hon. Oriaro to second.

(Hon. Oriaro seconded)

(Laughter)

Hon. Temporary Speaker (Hon. Ngure): I want to call upon Hon. Zilpa to give her contribution because she has been up several times.

(Loud consultations)

Hon. Temporary Speaker (Hon. Ngure): Sorry! Okay we are on the amendment.

(Question proposed)

(Question put and agreed to)

Hon. Temporary Speaker (Hon. Ngure): Hon. Andiego!

Hon. Andiego: Thank you, Madam Temporary Speaker Sir. Am on my feet to support this Report and I want to thank the Committee for good work done and I know that it was done under some difficult situation. I sometimes wonder whether if

we will also be forced to change our budgeting because it is difficult to oversight what you don't know. You cannot just wake up and someone tells you that there was Kshs. 100 and it is lost, you must know where it comes from, what it supposed to do such that when it is misplaced then you know how to go about it.

This is what has been happening in this County where we have the Committees for example the Committee of Education does its own budget and at the same time want to pass it. They put things in the budget and at the same time change things that they have already proposed in the budget and then you are tasked with... Madam Temporary Speaker Sir, there is a lot of movement in the House can you kindly regulate the House.

Hon. Temporary Speaker (Hon. Ngunjiri): Hon. Members can we please pay attention we not only supposed to listen when we are debating but we also have to listen when someone is contributing, so can we also give him the peace of mind to contribute!

Hon. Andiego: Thank you, Madam Temporary Speaker. So I was saying that we should adopt another system whereby if the executive has done their budget that budget should be brought to Committee concerned to discuss and agree on what is budgeted for, how much is the money and how much is going to be used. I Am also suggesting that when there is something to be replaced, they should do it together with the Committee so that they can make the changes together.

I have been wondering if money had been allocated for the ECDE instructors because it seems somebody decided to sit somewhere and scoop 24 million and spend it the way they want

then when asked to explain how the money was used they say that they planted trees while am coming from a very big Ward with many hills yet have not seen any tree planted in my Ward.

So when you tell me that 7 million was used on tree planting which we cannot see then I say that this is a high class robbery without violence.

(Applause)

I am very saddened and feel so bad that I wake up very early in the morning every day to come here to discuss and pass many Reports yet this people takes us for granted. We need to find a way and if the executive wants to work on their own, I don't know what we can do but one of this fine days we may decide to demonstrate against them as Members of this House because the Governor needs to know that;

1. We voted for him too.
2. We represent people.

And if things cannot be done the way we want then we will even go physical if that is the language they understand.

Hon. Temporary Speaker (Hon. Ngunjiri): Hon. Member, I beg that we never go physical because you saw what happened in Homabay.

Hon. Andiego: I withdraw, it is also indicated very well in our Constitution that any borrowing that is taken by the executive must be passed by this Assembly yet since we came there is no single day that we have been told that there is no money and we are going to borrow from place x. I believe that whatever is happening is that money was moved from sector A to sector B to do other things, so I am requesting Hon. Members that outside here people take us

as their helpers in here but we have not really done much.

We must come up with a way of how to help the people of Siaya or else we will be talking here as we are doing now yet we don't come up with any solution hence it is business as usual, I rest my case pleading to the people to arise and do our work as required.

Hon. Temporary Speaker (Hon. Nguere): Hon. Augo! Then after Hon. Augo then Hon. Willis and I think the fair way is to go from this side to that way.

(Laughter)

Hon. Augo: Thank you, Madam Temporary Speaker.

Hon. Temporary Speaker (Hon. Nguere): First of all, let me say this about Madam or Mr. Speaker, I think it is okay if one addresses the Speaker as Madam or Mr. this is just a story for 2 seconds, I got this from a visit to small city in England called Devon where the mayor that time was a lady and they kept referring to her as Mr. Mayor. So I think it is okay if it comes out as Madam Speaker or Mr.

(Applause)

Hon. Augo: Thank you, Madam Temporary Speaker. I would like to thank the Committee on Education for a job well done and their hard work to come up with this Report, in fact this Committee has gone through a lot of problems to come up with this. What worries me a lot as well as confuses me is how a budget of employment of ECDE teachers was moved to tree planting; the Committee ought to tell us whether if the tree were planted in schools or somewhere else?

Then again were the borehole drilling, fabrication, equipping and steel

tap as well as installation and construction of water kiosk put in schools or were they put somewhere else? Because this money was meant for payment of ECDEs teachers as well as the schools and so the Committee should have told us that the money was diverted to this and that project the whole 24 million.

It gets more confusing when you go to page 8 and the last page where it says how the Committee was frustrated without the supporting documents and this has been a tendency of these CECs that when they come to the Committee they come empty handed and when asked to provide the supporting document they don't provide any. So am supporting the recommendation that this people should be investigated so that we know where this money went. 24 million cannot be used in tree planting and whatever, I think this money was used in schools. So where did this money go? Even if we recommend that investigation be done, there is no any day that a Report has been brought and we see.

So we are wondering and even if you see here the Committee on Education really tired there best by even going to see the Governor who wrote to them and even gave them an appointment because he could even receive them, why? It is very frustrating and it is not a good picture if a Governor can call you a Hon. Member to his office then you get disappointed. How do those people in those offices see you? They won't even see you as Hon. Member who voted for him as my colleague have put it. We are respectable people as well as honourable people. So when we are called by the Governor through a letter in fact he should honour us and that's my take. I rest my case and I support this Report.

Hon. Temporary Speaker (Hon. Ngunjiri): Hon. Willis!

Hon. Ochieng: Thank you, Madam Temporary Speaker. I want to start by commending the Committee for having done a good work. This Report is a self-explanatory Report because it has been put to details and do not need to go into details because it is already explained. My concern here is the procedure the executive used when recruiting the teachers as you are aware it has been explained on the basis they were using here when recruiting the teachers and it is as if other ECDE centres or schools were being crucified on things that are not there.

One, they were considering the newly constructed ECDEs where the County Government funded the constructions and you find that there are some schools that have got the ECDEs and already had children who were either funded by the church or the community and they failed to honour that and went further to deploy teachers in the newly constructed ECDEs centres which is not right and did a great disservice to other communities. I think they should check into it and make sure that all ECDEs within the County are given ECDE instructors.

Second to that, up to date as the Report has indicated here I want to believe that ECDEs instructors that were recruited have not been given their monies as indicated here, the Kshs. 10,000 for the back date of the 12 months. I think something should be done into that so that we be told the truth whether they have received this monies or not and if not when are they receiving this money?

As you can see on page 8 how the 24 million was used, I think something wrong with the executive because all this

were not within our budget and we had a budget of 96 million for recruitment of ECDE teachers. I want to believe that in each and every Ward there is always bursary allocation, I don't know where again this 2 million came from and how it was utilized. Things like tree planting, I want to just confirm to this honourable House that I also represent a Ward where there were no any trees planted and if at all they were planted let the executive come clear and tell us where they planted these trees worth Kshs. 7.5 Million.

In terms of borehole drilling, fabrication, equipping and steel tap as well as installation and construction of water kiosks, I think whatever is mentioned here is not under ministry of Education and we want to know where these monies were spent and why and who approved the expenditure of this 24 million if not this House. I just want say on recommendation No. 2 that as it is stated here that Committee on Education went to the Governor's office several times and the governor did not turn up or even give them any attention.

I therefore wanted to give a suggestion that when giving all these penalties to the CEOs as well as the CECMs I think we also have to talk to the Governor as well as send him a communication from this House that the way he treated Education Committee was not good. It is only Jesus who died on the cross on behalf of us but we cannot crucify the CEOs or CECMs on behalf of mistakes of the Governor and CECM finance otherwise I support this Report and I rest my case.

Hon. Temporary Speaker (Hon. Ngunjiri): Hon. Rosemary!

Hon. Ogutu: Thank you, Madam Temporary Speaker. I want to add my

voice on this Report of the Education Committee and this Report is not a new Report to this House and we are familiar with the issues of Kshs. 96 Million for the recruitment of ECDE teachers. This Report has been going in circles and we do not know where the truth lays, we can now talk of recruitment of 450 ECDE teachers yet no body in this House has confirm that and at the same time we are not in a position to even confirm the van that was bought to go round with the offices to check if this officers reported to date and we not even answer to queries from the public.

Monies which were spent in this docket cannot be shifted and we even requested if we can be shown where this computers were taken so as a Committee we can verify on our own. We never got that opportunity because our letters fell on deaf ears and nobody replied. The visit to the Governor was the worst moment for as a County whereby the Hon. Members were hanging in the corridors of the Governor's office being helped with chairs and only to be told that the Governor is too busy to you today as the letter we received came with an official blue paper.

It was really a disappointment only to be told to go for tea at the County club of which I Rosemary a Member of this County could not go while we thought going for there we would get some information to present to this House but it never bore any fruit. We wanted to go so that we could know the locations which didn't manage to manage find. Thanks to the leadership of this Assembly which took us for a seminar of two weeks ago telling us our boundaries, where we are supposed to go and where we are not supposed to go.

I think with the different two powers of this County Government, somebody should be held into account of the Kshs. 24million. Our youths in Siaya County are still laundering around with no job opportunity while we had a very heavy rainy season last year which we would have utilized the Kshs. 7.5million to plant trees. I think the Committee which has given the recommendations to go and investigate this report and I rest my case.

Hon. Temporary Speaker: Hon. Aneme!

Hon. Aneme: Thank you, Madam Temporary Speaker. I will contribute very fast however long I am going to take. First I want to thank the Committee on Education. Indeed they have really helped this House. I happen to be a Member of Governance and Administration Committee, we have never in this House, for 3 consecutive meetings trying to ask the CECM of Governance and Administration to tell us how the employment of the instructors are going on.

There was a time here that the CECM Governance insisted that these Kshs. 24million was spent in paying instructors of the former local authorities which were there before the County Government came to place. After insisting that he was telling us nothing, these people refused to come to our meeting because they had not decided on how to fake all these things that are being exposed by the Committee on Education. This is money which syphoned in the education sector.

What I wanted to advice is, I am requesting and appealing to my colleagues, let us emulate the system of the Education Committee. Let each Committee go down and track its budget and follow it either weekly or quarterly to see to it how money

allocated to sectors is being spent. At times assuming that things are going on is what has brought this problem but if we follow them on quarterly basis or monthly basis then we shall track everything.

Thank you.

Hon. Temporary Speaker: Hon Osuri!

Hon. Osuri: Thank you, so much Madam Temporary Speaker. Much has been said but I want to be very specific because budgets must be specific. They are meant for certain specific year/financial year and this Kshs. 96million that we are talking about was meant for 2014/2015 and yet from the report of the ECDE they paid, they congested employment of instructors. They are spreading it up to the years beyond 2015 that is up to 2020.

As much as we say about the Kshs. 24m, in fact when you come to item 2, we don't know whether those ages are included to be given a portion of this money. And in fact if you look at membership fees dues, subscription for professional and Trade Unions, we don't know whether the Kshs. 0.5m was paid to these Trade Unions like Knut or whatever or they were paid to some lawyers. This is what the Committee wanted them to come forward and give and yet they failed to give.

If we are not careful particularly in Siaya, we are going to create a very dangerous gap in our education, even in the construction of ECDE centers. You find that in a Ward there are only three and yet we have so many of our children in the ECDE centers. When it comes to recruitment, the aim was to have at least uniformity spread all over, at least a teacher per ECDE center irrespective of whether it was constructed by the County

money or not. We are seeing that the few that are there are lamped in few centers and yet other centers are not taken care of. If we are not careful we are going to create a very dangerous gap in the standards of education. Otherwise, I support the report, thank you.

Hon. Temporary Speaker: Hon. Awour!

Hon. Awour: Thank you, so much Madam Temporary Speaker. Allow me to join those who have spoken before me over this report by congratulating this Committee with a bit of reservations. The person who is supposed to take, I want to refer you to recommendation number 3. Recently we went through a very serious training and the answerable person to this Assembly should be the CECM whom I want to believe the buck stops with. So, recommendation number 3, the then CO Madam Dorothy Owino, I want to say that she is just a CO, I know she is the accounting officer but I wanted to add that the CECM for Education should take the responsibility.

Having said that, if you look at this report, the Bursary Administration Fee, they allege Kshs. 24m has been used, it is exactly Kshs. 2m. If you look at the Youth Development Fund, it is exactly Kshs. 3m without even a single cent on top. If you look at the purchase of vehicles, it is exactly Kshs. 5m, if you look at ICT equipment it is exactly Kshs. 500,000. If you look at purchase of computers, printers and IT equipment it is exactly Kshs. 1m. If you go to borehole drilling, equipment for the fabrication of power installation and construction of water kiosks, you really wonder where this was done and why is it that all these things are just below, not even a single cent on top!

It is exactly either Kshs. 500,000 or millions.

This is one way where somebody somewhere is just busy trying to fleece this County money without proper channel. I think this is the time that this Assembly should stand up and stop such kind of corruption. We cannot be saying that the National Government is corrupt while here, because I am seeing malice, I suspect corruption in this. This reallocation was not done properly. It is the Assembly to pass the reallocation through the Budget Committee.

This morning we had a Statement whereby a whole Kshs. 92Million was reallocated without involving this House. This is where; if this thing is not addressed then we are going to the dogs. We will not be charged fairly by those who gave us the mandate to represent them. I don't want really to repeat what my colleagues have said but I want to state here that the Committee which is mandated to handle this should go with speed and recommendations should also have given us a time frame. After the adoption of this report, the House should recommend to the Executive, should have been given either one month or 60 days or 14 days after the adoption of the report. I think this is not there; otherwise, I support this report, thank you.

Hon. Temporary Speaker: Hon. Members, this is a topic/report that each Member would have something to say about and if we go on for 5/6 minutes or so, we are not going to have every Member who desires to contribute have a chance. So, let's shorten our time of debate to even 2 minutes.

Secondly, I just want to point out that the CIDP Plan, the departments are guided by 5 years plan and therefore the

mandate for this department is to give a projection of 5years. So, even as we talk of 2018, I think we are within 5 years.

Hon. Awour: Madam Temporary Speaker, I don't know whether it is in order for the Chair to contribute in an issue that has not been---

Hon. Temporary Speaker: Hon. Awour, this has come up several times, I think you were not here. I need to give you direction, thank you. I will now ask Hon. Zilpa and Hon. Shaban, and if we feel that enough has been said because it is getting to 5pm.

Hon. Omondi: Thank you, Madam Temporary Speaker. I just want to request the Members of the Budget and Appropriation Committee because they are the oversight Committee that should oversight. They should be following on what is going on with the budget that we pass. Apparently, that is not happening and this is why we have a scenario as we have it here. I am afraid that the same maybe repeated on 2015/2016 budget on ECDE. You will recall that the ECDE teachers were employed in January but January up to June will be 6 months.

What happens to the money that should have been used between July and December 2015. That money, initially from our Committee we had suggested that instead of just employing 450 teachers, some more could have been employed using the saving that had already been made. But if that one is not followed, these are the monies that are finding their roots to elsewhere. So, the Budget and Appropriation Committee must also do their work as required.

On the issue of the CO Education, it has been cited here that the CECM should be responsible. There is a very good reason why the Education Committee

singled out the CO Education. The CO Education was personally involved in all these stuff because the CECM was employed after the CO was already in the office. And when we follow the trend of things, she is the one who had knowledge of everything that was happening in that office and she is the one who not even cooperating well with us. What is happening in the Education could also be happening in other sectors. I am in another Committee and when I look at what is going on in that Committee, what I see in Education, is what goes on in that other Committee. Use of money in that Committee is not as per the budget and this is what brings about the so called 'parallel budgets', and you remember---

Hon. Temporary Speaker: Hon. Zilpa, since we have very limited time for this particular report, perhaps it would save us time if we stick to matters of this report. I know that as teachers you are very passionate about this and Hon. Omar is also a teacher and is also waiting.

Hon. Omondi: Madam Temporary Speaker, I was just bringing that scenario out so that I press upon the Members that they should have their eyes wide open as to what happens to the budget and then time it goes to supplementary, we ended up having Kshs. 72 Million in the ECDE vote without realizing. So, through out last year we talked of Kshs. 96 Million and we are the very people who sat in this Assembly and shouted "as many as are of that similar opinion say Aye" and we shouted that we should have the supplementary budget that took away our Kshs. 24m. I urge Members to be on the lookout while things are going on. Thank you and I support the report.

Hon. Temporary Speaker: Hon. Omar!

Hon. Shaban: Thank you, Madam Temporary Speaker. I hope I am still the last born in this House and today I will also be the last one to contribute. I will take a very short time. We always say that the Assembly and the Executive, we belong in one house. If you stay in a house and one person always makes a mistake that you have authority over, and you keep on warning him saying that I will cane you, then the next time you do the same mistake and say I will cane you, this person will get used to these warnings but the mistakes will continue. What am I implying? This Assembly has the whip that it can use to make the things that are happening with the Executive not to happen.

We have the laws that we can use and tell the people who are misappropriating the money of the public. So I am requesting that this report that we are going to adopt, the Committee that it will be committed to, as we have said the Committee on Finance, let them do their investigations and it should have proper recommendations and if possible, the person who is responsible for misappropriation of the money should be brought in this House so that we can use our whip to whip him or her! I assure you if this happens next time we will not be talking of such issues, money that has been allocated to do this function and has been allocated to do something else that has not been approved.

Lastly, the way it has been said, in all Committees, we always come here and give warnings but there is no action that has been taken. Let us adhere to timelines that we have been given to report back to the House and let us take action that has

been recommended in reports. This will help us and will make us be respected when we are walking outside. But if you give warnings and things are not happening and we have the laws then outside there we will not be respected. Thank you and I support the report.

(Applause)

Hon. Temporary Speaker: I think it is very clear about this debate and if there are no Members to contribute because our time really should go beyond 5.00pm, we are not very late but if we don't have more Members wanting to debate then I will call upon the mover to reply.

Hon. Munda: Thank you, Hon. Madam Temporary Speaker. I thank the Committee on Education, they have done a thorough job and I did sympathize with them. They underwent a lot of frustrations because this thing could have been done long time ago.

On the issue of employing 3 teachers in one school, it could have been one teacher per school. The 15 that we had could have been spread in so many schools. This could have helped the parents who really give a lot of money, really coughing a lot of money, to pay the teachers or the workers that are in schools. This could have been a very good suggestion, instead of lumping three in one school and the rest are left without. The parents are using their own money to pay those teachers.

Otherwise I don't have much, but really to thank the Education Committee, they have done a good job, they have really dealt a lot on misuse of 24 million, and I propose, just the way they did, that this misuse of 24 Million, should be

presented further so that we know where it is. It is a lot of money. It's not a small amount, and we should know as a House where these moneys went to. I support.

Hon. Ngure: Thank you. I now call upon the mover to reply.

Hon. Munda: Thank you Madam Speaker, I will be very brief. I want to thank all the Members for their very useful contributions, especially the additions that are going to make the new report reach up, We welcome the additions and we assure Members that we will cover them. Madam Speaker, the only thing I would like to add, is that it has been said that if it walks like a duck, quacks like a duck and looks like a duck, most likely it's a duck. What we have witnessed today is something that looks like corruption, smells like corruption, tastes like corruption, and Madam Speaker, most likely it most likely is corruption.

I want to congratulate the Siaya County Assembly for standing up and saying No to words of corruption. We all know that in the Country right now is that, faced with the very same is a Lady by the name Anne Waiguru, it is strange that we could be having other Waigurus in this County, but by the notion of this report, I believe that all the Waigurus in this County will be placed on the right positions, and will not hold any public office. I thank you Members for the report.

Hon. Ngure: Hon. Members, I now propose that the report of the Sectorial Committee of Education, Youth Affairs, Gender and Social Services on the recruitment of ECDE teachers in 2014-2015 financial years be adapted. I put the question; would as many as many as of the same opinion say Aye?

(Response)

would as many as of the contrary opinion
say Nay? The Ayes have it. (*Applause*)

MOTION

Hon. Otieno: Thank you very much Madam Speaker, after the serious debate on this important issue on the nature of these institutions, I am actually taking a bit of our time, and given that we do not have any issues that we should addressing on the order paper, I want to move a motion to Adjourn it. That this House Adjourns until Tuesday 23rd February at 2.30 p.m. I want to call upon Hon. Ngure to adjourn it.

Hon. Ngure: Hon. Members, this House now Adjourns till Tuesday at 2.30 p.m.

The House rose at 4.37 p.m.

TUESDAY, 23RD FEBRUARY, 2016

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

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

PRAYER
COMMUNICATION FROM THE CHAIR

Hon. Speaker: I will give Communication after Statements.

PAPER

Hon. Asewe: Thank you, Mr. Speaker. May you allow me to lay before this House report of the Committee on Public Works, Roads, Transport and Communication on the vetting of the County Executive Chief Officer Nominee in charge of Public Works, Roads and Infrastructure.

Hon. Speaker: I have a communication from the Committee on Appointments that they will give a progress report and seek resolution of the House. In that respect they will not lay the Paper, instead when it comes to the Motion, they will give us progress report and then we will take a decision as a House on the resolution.

NOTICE OF MOTION

VETTING OF CHIEF OFFICER NOMINEE

Hon. Asewe: Thank you, Mr. Speaker. May I give a Notice of Motion: THAT this House on the Vetting of Siaya County Chief Officer Nominee for the department of Public Works, Roads and Infrastructure.

Hon. Speaker: Chair, Committee on Appointments!

Hon. Adera: Thank you, Mr. Speaker. First I wish to apologize to this House for having taken long before we commenced our Business of the day. The main reasons were, the Committee on Appointments was meeting and it was difficult to reach some resolutions and that is why we had to take long. However, we have just concluded our meeting and our report is being typed and---

Hon. Muhulah: Point of order, Mr. Speaker.

Hon. Speaker: Yes, Hon. Muhulah!

Hon. Muhulah: Mr. Speaker, I would want to acknowledge and respect what the Hon. Deputy Speaker is saying in this House, but our Standing Orders stipulates very clearly that this House should not sit for more than 30 minutes without Business going on. Number two, if the House Vetting or Appointments Committee was not ready then they would not hold this House hostage. In future---

(Applause)

the Deputy Speaker, to stand up and apologize on behalf of just one Committee subjecting this House for waiting, that I what we would like to register Mr. Speaker.

Hon. Speaker: I agree with you totally, entirely. Yes, Hon. Deputy Speaker!

Hon. Adera: I believe Members have taken my apologies. You know it's in good spirit that we also apologize to the House, having taken long before we commence Business rather than coming just to commence with Business. I think Hon. Muhulah should have acknowledged that also. Mr. Speaker, I wish to give a Notice of Motion that this Assembly that we move the Motion of Appointments of two members of Executive Committee. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. Next order!

MOTION

VETTING OF CHIEF OFFICER NOMINEE

Hon. Asewe: Thank you, Mr. Speaker. The Committee on Roads, Public Works, Transport and Communication, deliberated on matters that were presented before them as follows: On behalf of the Members of the Committee on Roads, Public Works, Transport and Communication and pursuant to the provisions of Standing Order No. 192 (5)(f), it is my pleasure and duty to present to the House, the Committee's Report on the vetting of the Siaya County Chief Officer Nominee. The Membership of the Committee is listed down for the Members to see.

Committee mandate

The Committee on Roads, Public Works, Transport and Communication is one of the Sectorial Committees established under Standing Order No. 192 (5) (f) which provides that, the Committee on Roads, Public Works, Transport and Communication shall vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (*Committee on Appointments*).

Nomination of the Chief Officer

Pursuant to Section 58(1) (c) of The County Government Act, 2012, H.E. the Governor, through the Interim County Secretary forwarded to the Clerk of the County Assembly, the name of the Nominee vide a letter dated 4th December 2015 for vetting by the Committee on Public Works, Roads, Transport and Communication and consideration for approval by the County Assembly for appointment as Chief Officer in charge of Public Works, Roads and Infrastructure:-

Nominee Department/Position

NAME	POSITION	DEPARTMENT
JOEL OCHIE NG ODUOL	CHIEF OFFICER	PUBLIC WORKS, ROADS AND INFRASTRUCTURE

The Honorable Speaker in a communication to the House, on Tuesday, 9th February 2016 informed the House that the Clerk of the Assembly had received the name of the said Nominee and directed that the name and Curriculum Vitae of the said Nominee be referred to the Committee on Public Works, Roads, Transport and Communication for vetting and reporting to the House within 14 days.

Committee meetings

The Committee held one Sitting on 19th February 2016 during which the said Nominee appeared before it and was vetted in accordance with the Siaya County Public Appointment Act, 2014 for appointment as Chief Officer in charge of Public Works, Roads and Infrastructure.

On behalf of the Committee on Public Works, Roads, Transport and

Communication, I have the honor and pleasure to present the Committee's Report on the Nominee for appointment as Chief Officer in charge of Public Works, Roads and Infrastructure. May I take this opportunity to thank all Members of the Committee for their exceptional input and valuable contributions during the deliberations and vetting of the Nominee.

BACKGROUND

ESTABLISHMENT OF THE COMMITTEE ON PUBLIC WORKS, ROADS, TRANSPORT AND COMMUNICATION

The Committee on Public Works, Roads, Transport and Communication is one of the Sectoral Committees established under Standing Order No. 192(5)(f) with the mandate to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (*Committee on Appointments*).

Section 10 of the Siaya County Public Appointment Act 2014, provides that, where the nomination of a candidate is rejected by Assembly, the appointing authority may submit to the House the name of another relevant candidate, and the procedure for approval specified in this Act shall apply accordingly.

APPOINTMENT PROCESS OF THE NOMINEES

- (i) Pursuant to Section 58 (1) (c) of the County Government Act, 2012 H.E. the Governor, through the Interim County Secretary forwarded to the office of the Clerk of the County Assembly, the name of the Nominee vide a letter dated

4th December 2015 for vetting by the Committee on Public Works, Roads, Transport and Communication and consideration for approval by the County Assembly for appointment as Chief Officer in charge of Public Works, Roads and Infrastructure.

- (ii) Honorable Speaker in a communication to the House informed the House that the Clerk of the County Assembly had received the name of the said Nominee and directed that the name and Curriculum Vitae of the said Nominee be referred to the Committee on Public Works, Roads, Transport and Communication for vetting and reporting to the House within 14 days.
- (iii) The public was expected to participate in the vetting process through submission of memoranda (affidavit) on the suitability or otherwise of the Nominees. The Assembly placed an advertisement in the print media on Thursday 11th February 2016 inviting the public to submit memoranda by 18th February 2016 at 5.00pm on the suitability or otherwise of the said Nominee pursuant to Section 6(9) of the Siaya County Public Appointment Act, 2014. However, no memorandum was received from the public on the nomination of the Nominee.

VETTING OF THE NOMINEES

In conducting the vetting process, the Committee on Public Works, Roads, Transport and Communication examined the Nominee against the following criteria, amongst others, in accordance with The Constitution of Kenya 2010, Siaya County Public Appointments and Approval Act, 2014 and The County Government Act, 2012

- (i) Academic qualifications ;
- (ii) Employment record ;
- (iii) Professional affiliations ;
- (iv) Potential conflict of interest ;
- (v) Knowledge of the relevant subject ;
- (vi) Overall suitability for the position;
- (vii) Tax compliance
- (viii) Integrity

During its Sitting held on Friday 19th February 2016, at Assembly Chambers in Bondo, the Committee orally interviewed the Nominee for appointment as Chief Officer in charge of Public Works, Roads and Infrastructure.

MR. JOEL OCHIENG ODUOL - NOMINEE FOR CHIEF OFFICER IN CHARGE OF PUBLIC WORKS, ROADS AND INFRASTRUCTURE

Mr. Joel Ochieng Oduol appeared before the Committee on Friday 19th February 2016 and stated that:-

He hails from Ugunja Ward, Ugunja Sub County, Siaya County.

He is 38 years old

He is married with two children (boy and Girl)

His academic Qualifications are as follows;

- ✓ The Nominee has a Bachelor of Science Degree

in Industrial Technology from Egerton University

- ✓ Diploma in Civil Engineering from Mombasa Polytechnic

Employment records;

- ✓ April 2014 – Present: Director, Technical Services, **Visima Consult – Kenya**
- ✓ October 2009 – March 2014: Engineering Field Monitor, **Water Services Trust Fund – Kenya**
- ✓ March 2009 – September 2009: Technical Manager, **Visima Consult – Kenya**
- ✓ February 2008 – February 2009: **KM Project Management & Consultancy Services – Botswana**
- ✓ August 2006 – January 2008: Water and Sanitation Engineer – **Plumbers Without Frontiers – Kenya**
- ✓ 2005: Safety Inspector and Site Agent (Roads Projects and Building Construction) – **Lunar Engineering & Co Ltd – Kenya**

The Nominee also possesses other relevant experience as an attaché with several organizations including;

- Kenya Pipeline Company Ltd.
- 1. Ministry of Public Works
- 2. Alro Construction

3. Kenya
Institute of
Administration
4. Lake
Victoria
North Water
Service
Board
5. Lake
Victoria
South Water
Service
Board
6. Bamburi
Cement

He has a vast experience of working with Siaya County Government where he has worked as a consultant under the auspices of Visima Consult in preparation of BQs and formulation of a water tight payment system for contractors.

1. He has strength in working with people both within and outside the County and was ready to tap the potential of all stakeholders to provide quality services to the people of Siaya.
2. He will ensure he stamps his foot down when it comes to corruption within his docket and informed the committee that he cannot accept any form of corruption.
3. With regard to payment of Contractors he informed the committee that he will digitize the whole process from the procurement point, inspection, verification and ultimately the payment stage to ensure contractors were paid on time and the quality of work done was superb.

4. He promised to ensure timely starting of projects to ensure proper completion of projects within a particular financial year.
5. He promised to push for the employment of more staff in the department especially qualified field engineer to ensure proper and timely inspection of projects to ensure quality of work and help speed up the payment of contractors.
6. On clustering of projects he said it had its own merits and demerits and he was ready to advice on the best way forward.
7. As for the construction of roads within the county, the Nominee informed the committee that he was of the opinion that the County Executive together with MCAs should concentrate on a few roads to be constructed to good standard at a particular time rather than too many roads opened which are not properly constructed in the opinion of the Nominee.
8. The greatest challenge that the Nominee noticed within the County is lack of communication between the Executive and the Assembly a matter that he will strive to ensure is sorted out in his tenure, through setting proper communication channels.

COMMITTEE'S OBSERVATIONS

1. The Nominee had the required academic qualifications as was advertised for this position of Chief Officer.
2. The Nominee had relevant and wide experience in engineering field and that would be extremely relevant for the position.

3. The Nominee exhibited impressive mastery of knowledge on matters of Road construction and water engineering.
4. The Nominee had no potential conflict of interest.
5. The Nominee had never been charged at any court of law
6. When asked on his key responsibilities, the Nominee well-articulated the responsibility and clearly lumped them into two: operational and strategic.
7. On the requirements of the position; the Nominee was well aware of the requirements of this position and the committee was convinced that he had the nerve to handle the position.
8. The committee further observed that the Nominee was committed and had the best for the County at heart since after working for the County as a consultant he was willing to come and join in shaping the progress of the department.
9. The Nominee had a good knowledge in staff management that would allow him properly manage the staff in his docket and deliver services to the people.
10. The Nominee submitted original copies of the following documents of which he had submitted copies before
 - ✓ ID card
 - ✓ Dully filled questionnaire for vetting/ approval of Nominees for appointment to public office by the County Assembly
 - ✓ Curriculum Vitae
 - ✓ Academic and Professional Certificates
 - ✓ Compliance Certificate from Kenya Revenue Authority (KRA)
 - ✓ Clearance Certificate from Higher Education Loans Board (HELB)
 - ✓ Dully filled self – declaration forms on Leadership and Integrity for Ethics and Anti-Corruption Commission (EACC)
 - ✓ Clearance Certificate from Credit Reference Bureau (CRB)
 - ✓ Clearance Certificate from Criminal Investigation Department (CID)

COMMITTEE'S RECOMMENDATIONS TO THE HOUSE

Pursuant to Standing Order No. 192 (5) (f), the Committee recommends that:-

The Nominee be appointed as Chief Officer In charge of Public Works, Roads and Infrastructure.

This House approves the Nominee for appointment by H.E. the Governor as Chief Officer in charge of Public Works, Roads and Infrastructure

Mr. Joel Ochieng Oduol - Nominee for Chief Officer in charge of Public Works, Roads and Infrastructure.

The Nominee is Joel Oduol, the way he appeared before the Committee, he had a lot of confidence that he will be able to marshal the department and he was sure of achieving his goals although he said that he will not do it alone, he wanted the Assembly to join force and the Executive side so that they work together and achieve the expected goals in his department. Mr. Speaker, may I ask Hon. Booker to second. Thank you.

Hon. Minami: Seconded
(*Question proposed*)

Hon. Oriaro: Thank you, Mr. Speaker, Sir. One observation is that it is unfortunate that the County was swimming in the deep seas of governance without a technical figure in this department to surmount the area of bureaucracy. We all know that going by the past practices, what we can only talk about is bureaucracy; we find roads done without Bill of Quantities; we even failed how the procurement was awarding such.

We may excuse the Executive but on a point of good governance the person in the name of the C.O. in this docket is needed as early as yesterday. I am seeing the mood of the House and they will talk and it is clear that this is a yes vote immediately after our presentations on this matter.

Hon. Muhulah: Point of order, Mr. Speaker.

Hon. Speaker: Yes, Hon. Muhulah!

Hon. Muhulah: Mr. Speaker, is the Member in order to make a declaration for the House before the Members discuss

about this! Where does the Member see a yes vote?

Hon. Speaker: The Member has not declared, he just thinks. Did you declare or you thought?

Hon. Oriaro: The son to my nephew thinks that way.

(*Laughter*)

Mr. Speaker, Sir, in the realm of politics we expect predictions but they have to undergo the test of empiricism.

(*Laughter*)

So, I precede, Mr. Speaker.

Hon. Speaker: I hope those tough words are still relevant because---
(*Laughter*)

Hon. Oriaro: ---they have to undergo scientific tests

Hon. Speaker: Fine, proceed!

Hon. Oriaro: I agree and we all know a Sectoral Committee of this nature is an extension of the House and as they tooth comb into matters pertaining to their Business, they are vested with the powers and that which they bring to the plenary must pass the test of law. One observation Mr. Speaker, Sir, which I must point out is very clear, Bachelor of Science Degree in Industrial Technology is different from Bachelor of Science Degree in Industrial Engineering.

The latter upon receiving clearance from the bodies that deal with engineering confers a title of an engineer to a person. Here it is clear this man is a Mr., therefore I want to disagree with the employment record that is August 2006. Going by the academic credentials, the man was a Sanitation Engineer. This is very clear, in the records we have, we have to set a precedent Mr. Speaker, Sir.

We had disqualified people who had gigantic credentials but the failure to

present or to lay the certificate for registration, many people lost, couldn't get a chance but with this one we have seen, maybe I am the one who is not seeing it, it is not attached, academic and professional credentials, all those are listed here, but in the past we let many Kenyans down. If it is an engineer, it has to be brought to our attention the evidence as to his membership with those institutions.

Even if he is a technologist, we have a body of technologists for which he has to be a member, so away from many things, maybe I am in the minority, all said Mr. Speaker, Sir, ---like a society philosophy, only ---can be built out of the native material. He is from Ugunja, I have heard it for the first time, it is a high time we gave our own from within a chance but I may only say on the ground that that particular credential is not attached. I as Oriaro going by the past precedent where members, potential County staffers lacked, could not produce that, I reject. Thank you.

Hon. Owii: Point of order.

Hon. Speaker: Yes!

Hon. Owii: Mr. Speaker, Sir, going back to the past experience, I have never seen in this House where we attach credentials in reports like this one, it will be the first time

(Applause)

The Hon. Member started so well but he has ended so poorly.

(Laughter)

Hon. Speaker: The Hon. Member for Central Alego started by saying that in his opinion, this is already past, down the line he realized that there are no

credentials but the position is that in a Committee report of this nature, it is in order to attach minutes, it is in order to attach C.V.s

(Applause)

But I also want to believe that it will not be a matter that will hold you back and discussing this matter but he is right, those documents need to be attached/appended. Yes proceed!

Hon. Ndonji: Thank you, Mr. Speaker, Sir. First I want to commend the Committee for the good job they have done. As you can see, despite the fact that it is being said that the documents have not been attached, we can see the wealth that is there in this person's potential. It is so colorful, we can also see that the Nominee at one time worked with a certain organization, he left the organization just because he was going for greener pastures and going back to that organization which means that they were happy with what he was doing and he could be accepted back.

Mr. Speaker, Sir, at the same time, I want to say that this Committee of Appointments could be one of the few --- that has passed in this Assembly that is normally adhered to by the Executive. Otherwise I am very sure that had it been any other thing, if we pass it probably the Executive would not have done anything about it. However Mr. Speaker, I might only want to comment on one stain in this colorful document, one stain and about two concerns.

The stain comes in page 7, number 6, in which it is saying that he has a vast experience of working with Siaya County Government where he has worked as a consultant under the auspices of VISIMA Consult in preparation of BQs and formulation of a water tight payment

system for contractors. Mr. Speaker, Sir, if this is what we are going to look into then I think here they were very wrong because there is no ---system for contractors in Siaya and the payment has been ---, therefore, that is the stain that I am seeing here

Moving ahead Mr. Speaker, Sir, another issue that has raised eyebrows to me is what he has said that, number 12 in page 8, what he has said about clustering of projects, he has that it had its own merit and demerits and was ready to advice on the best way forward. That is a very good one but it depends on who is being given this advice because we are very much aware that there are people who do not take advice in this County in the Executive, I am not mentioning names but everybody knows that there are people who don't take advice and they believe they know everything.

So, I don't know how he is going to go about that one, I am very sure it will be very difficult and lastly, probably the greatest challenge that he has talked about and he has noticed which is very true is that there is lack of communication between the Executive and the Assembly. It is good that he is talking about probably reversing whatever he has noticed has been a very wrong thing but I am very sure that he might do it for some time but those same forces that don't take advice might decide to make him reverse his decisions and do what is not supposed to be done.

Otherwise I don't have much to say about this report and let us support it so that the gentleman can come and start working because as a matter fact it is long overdue. We are now three years down the lane, the truth is that the Executive has not done as good, we are not supposed to be having structures right now, they should

have been laid long time ago and I am happy that we are now going to have somebody who is going to be a technical person in the roads and infrastructure department. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Hon. Rosemary!

Hon. Ogutu: Thank you, Mr. Speaker, Sir. I want to add my voice on this report. I thank the Committee for a well done job and as my colleague has said, this appointment is long overdue, it should have come earlier than this time because a lot has gone wrong in this department. That includes the shoddy works which had been done in Siaya that we wish the so called Mr. Joel had come earlier I think these things could not have gone that way.

I have only one concern which I have seen, I don't know if it is a conflict because the gentleman comes from Ugunja where the C.E.C.M. also comes from. Under the spirit of devolution, we want to talk about equal distribution of resources and equal distribution of manpower (employment). He comes from Ugunja; the C.E.C.M. comes from Ugunja that is something that I have noticed. What I would wish the C.O. to be, is that he should be given a free hand to work, not his hands to be tied so that we can move as a County.

There are issues at the procurement department, there are issues at the engineering department, there are issues with the BQs and I am not seeing him mentioning that area on how he is going to work on them. As I wind up I just advice that this man be given a free hand to work so that this position can help the people of Siaya County. Thank you, I rest my case as I support.

Hon. Speaker: Hon. Muhulah!

Hon. Muhulah: Thank you, Mr. Speaker. Equally I wish to talk about this young man who wants to join the Siaya County Government. If I start with the qualifications of this young man, I would first want to tell this honorable House that one precedence that has not been done very well in this House is that Joel is not coming new in the County Government.

I have met Joel in a forum where Joel was introduced to me as the Chief Officer of Works, so Joel is not coming as a new person here, that one is a violation of the power of this House to vet a staff before he is employed. Number two, when I am to go to the qualifications of this person, I want to tell this House very clearly that the Bachelor of Science Degree in Industrial Technology is not a degree in Civil Engineering, not for roads and not for works, this is more or less drilling or instrumental engineering but he has a Diploma in Civil Engineering which would allow him to work.

Mr. Speaker, I am concerned that this person has been part of the County Government doing the consultancy of the preparation of the BQs. The biggest problem that this County Government has had with the people of Siaya and the Membership of this House is the corruption that has always been taken or channeled through the BQs and this person has been part of the preparation of these BQs, how can we trust him with authority to do now BQs officially?

(Applause)

I have a problem with that Mr. Speaker. Another thing that makes me have a pinch of relentlessly is deciding whether this person should be given this position is one, the talk of tightening, payment system for the contractors, again this is where this

House had a lot of problems in the streamlining of the payment systems for the contractors in this County. We want to entrust this very critical area to one person who has been in the system that also to me is a challenge.

It is indicated here, he was the director technical VISIMA Consultant, he worked for the County Government before actually being engaged as the Chief Officer, then the name is brought here after working with the County Government as the Chief Officer, I am seeing some sinister in this, very big sinister in this. This could be another way of creating an office to benefit some few people in the County Government of Siaya. We must be very watchful

Hon. Ndonji: Mr. Speaker!

Hon. Speaker: Yes, Hon. Ndonji!

Hon. Ndonji: There is an issue that I find my colleague is really stressing about and I need him to substantiate because he is saying that this person, which has not been put in this report, he is saying that Joel has been working as a C.O.; he was introduced to him as a C.O. We need substantiation on that because we are not very sure about what he is talking about.

At the same time I want to say that, despite the fact that we are talking about the qualifications, he has a Bachelor of Science degree in Industrial Technology, it has not been specified what degree someone is supposed to be holding but it is good that he has also highlighted that he owns a Diploma in Civil Engineering. Thank you, Mr. Speaker, Sir.

Hon. Speaker: He is asking on the fact Hon. Muhulah is factual in ascertaining that this Nominee has been working for the County Government of Siaya. Let us just dispense with it, Hon.

Chair, the mover of the Motion, is it true that he has been working with the County Government as the Chief Officer?

Hon. Minami: When asked about that question Mr. Speaker, the Nominee responded that the County Government of Siaya contracted a consulting firm, so that is where he came in contact with County Government of Siaya but not as an individual but through the VISIMA Consultant. Thank you.

Hon. Speaker: I think we don't have facts to ascertain. I just want to clarify something which the Hon. Member started with that it is in violation that we get a name of somebody who is already working in the County Government. In the appointment of Chief Officers County Government Act says that the Governor shall nominate qualified and experienced County Chief Officer from among persons competitively sourced and recommended by the County Public Service Board that does not limit even if he was working in the County Government.

(Applause)

Unto that we will establish and share with you tomorrow. I just want to remind you that it is out of order to say something which is not factual in this House. Proceed.

Hon. Muhula: Mr. Speaker, Sir, I stand with authority in this House to confirm to you that you have said they will get it tomorrow but what I will say in my clarification is that there can never be anything to stop the Governor from appointing the person who is working for a position that is advertised. Somebody should not be brought to this House having served in the position that we are vetting to recruit.

Hon. Speaker: Hon. Muhula that is not right because for example we could have a County Secretary say Mr. Marube working now and a position is advertised and then he comes, he will still just be vetted.

(Applause)

Hon. Muhula: Most obliged Mr. Speaker, Sir. I see the response of the vetting committee asking the question of how the officer is going to work and it is indicated that the payment of contractors had informed the committee that it will be digitalized. The payment of contractors is already digitalized through IFMIS so I don't know what the CO was coming to digitalize.

On the issue of having the conflict of interest I see a lot of it because at one time this nominee represented a company that is already engaged by this County Government. I still don't see anything that can stop him from enhancing those vested interests or conflicts of interest.

On the issue of communication between the Assembly and the Executive, there are only 2 offices that are allowed to enhance it and they are the CO of the Governor and the CS of the County Government of Siaya. The duty that we employed him to do is just one, to ensure that the projects are done and target achieved. The roads should be good all the buildings should be in order that is the reason why we are employing this person.

I still have a very big issue on the trust that I Hon. Peter Muhula, can give this nominee have that employment in that case. I stand to reject the Report.

Hon. Speaker: Yes Hon. Deputy Speaker.

Hon. Adera: Thank you, Mr. Speaker, Sir, I also wish to add my voice to this Report. Personally I have perused the Report and on the part of the CV I can see that this is a very experienced candidate who really deserves such a position. The experience that he has I want to believe will help this county move forward. In the past we have had certain problems but I believe we are now bringing in people with a lot of experience that can give us assistance.

I want to be very brief. This candidate has said in his own words that he will stamp his foot down when it comes to corruption within his docket. We are all aware that corruption is almost bringing this County down to its knees. If we can assure that the committee can enforce and the Assembly at large that they will fight corruption then this is the right person. We know a lot of money has been embezzled in this docket but if he is ready to fight it head on then as an Assembly we don't see any need of denying this gentleman this job.

He also promised to ensure timely starting of projects to ensure proper completion of projects. Everyone is aware that the County Government of Siaya has started several projects some are not timely, some are timely but again they stall along the way. Some were started several years back and to date they have never been completed so if he can really do as he stated before the committee then I believe that this is the right candidate for this job.

However just as one Member had already noted I was sharing with my brother here that how comes the CEC of Roads is coming from Ugunja and again the CO is also coming from Ugunja. I think the appointing authority made a mistake. It is not our agreement but I can

see that the department of roads is going to Ugunja. I want to believe that they will not work in unity.

Hon. Owii: Point of Order!

Hon. Speaker: Yes Hon. Deputy Majority Leader.

Hon. Owii: Thank you, Mr. Speaker, Sir, I wonder if the Hon. Deputy Speaker is the person we would entrust as somebody to give us direction on this matter. He could not see that the vetting of a nominee like this one is done against some criteria and the criteria has been put here. I don't see in any of them where it says that where the CEC comes from is actually one area where we should not get a CO. It is an academic qualification I just hope it is me...

Hon. Adera: Is the Member giving his contribution or he is standing on a point of order? If he is giving his contribution he should come later and...

Hon. Owii: I am not giving my contribution I am just giving him direction that he should talk when he knows that there is a criteria.

Hon. Speaker: Hon. Owii what is your point of order?

Hon. Owii: That he should stick to the criterion which is put for vetting the nominees.

Hon. Speaker: You are finding the Hon. Member irrelevant?

Hon. Owii: Very irrelevant.

Hon. Speaker: Issues of relevance are within our Standing Orders but from the contribution of the Hon. Member, I think he was saying that that is an observation he has made. I don't think he is putting his support or lack of it based on that. Hon. Deputy Speaker, enlighten the House.

Hon. Adera: Thank you, Mr. Speaker, Sir, Hon. K'Owii as a senior

Member of this Assembly is much aware that once you are citing a Member to be out of order then you should also cite that Standing Order one has breached. I believe I have not breached any.

Hon. Speaker: Hon. Deputy Speaker you also know that you should not repeat yourself.

Hon. Adera: Thank you, Mr. Speaker, Sir, I am concerned with that point that both the CEC and the CO are coming from the same area. They may decide to take the office of the Department of Roads to Ugunja Sub County. I want to believe they will not behave that way.

On clustering, there is one tactful question which he answered that on clustering of projects he said it had its own merits and demerits and he was ready to advice on the best way forward. I think this candidate was trying to avoid answering this question because it is an issue that was discussed in this county because contractors are crying that the County Government of Siaya has clustered so many projects together.

What will the young contractors gain from it? So he didn't want to contradict his boss who is supposed to give him the job that is why he said I will look at its own merits and demerits and advice as time goes. He ought to have come clean on this issue so that we give the young contractors in this county the chance to do business with the county but not to avoid questions.

(Applause)

He has vast experience with Siaya County Government where he has worked as a consultant. He has also worked as a consultant under the hospice of Visima Consultants incorporation of BQ's and

formulation of water tight payment system for contractors. It means that this guy has been party to delay of contractor's money.

(Applause)

We are aware that it is a crime that they have not been paid yet there is a lot of money lying in our county. I am only impressed with the experience and academic qualifications of this guy but I have issues with him. However I support.

(Laughter)

Hon. Speaker: Hon. Member for Ukwala.

Hon. Odinga: Thank you, Mr. Speaker, Sir. I want to join my colleagues in supporting this report. Based on the vetting, I think it is very important that at this juncture we engage a technocrat, somebody who really understands what is happening in the Works Department.

I want to pick it from where Hon. Adera left it. I was saying that this man has been engaged by the Siaya County Government in terms of development of BQ's the same was said by Hon. Muhula but when you are engaged as a consultant the only thing is that you develop the system but you now leave it for the government.

(Applause)

Could be that this person developed engineered estimates but when it came to implementation this was not done by the County Government. It was not his problem and now looking at whatever budget we have done that is 2013/2014 and 2014/2015 we have had a lot of problems costing for the roads. You find that in quite a number of cases we have complained that whatever is being

put in the budget is by someone working from the office.

Someone would just sit here in Siaya and estimate that a road from point A to point B would be such Assembly number of kilometres that would cost say Kshs. 3 or 4 million but now this is coming at the right time when we are planning to do 2016/2017 Budget and how I wish that this gentleman would go round and inspect these roads and ensure that whatever we are putting in the Budget of 2016 /2017 would be the actual cost this would avoid the cases of under budgeting or over budgeting.

There is one area in page 8 items 14 where he is saying that the greatest challenge that the nominee noticed is that there is lack of communication between the County Executive and the County Assembly. I want to disagree with this because a number of times we have passed resolutions as a House but the only thing that is lacking is feedback. The Assembly has been communicating with the Executive through the office of the Clerk. The thing is that we have not been receiving feedback and this can be confirmed by Hon. Oriaro who is the Chair of the Implementation Committee that a number of times he has been taken round and round in terms of feedback following up on the resolutions of this House.

Otherwise I support and the fact that they are coming from the same sub county with the CEC I don't think it means that they will be colliding. However we are saying as people who come from Ugenya, we also need to be considered when making these appointments.

(Applause)

Hon. Speaker: Yes Hon. Andiego.

Hon. Andiego: Thank you, Mr.

Speaker, Sir; I start by saying that I am a Member of this committee. I came one on one with this nominee and I want to tell this House that the nominee is a very young, active and is very much able to turn things around as has been explained in this Report.

I once met Mr. Joel Ochieng Oduor as an MCA before I knew that one day he will be nominated as Chief Officer of Roads and Public Works. When I had a problem in my Ward about the roads and I was directed to Mr. Ochieng, within 2 hours of our talk things were done and I asked myself, where is this man from? Later when we were given his name as a nominee I was persuaded that this man would be very good if he is taken to be the CO of roads and public works.

According to our Constitution there are things that we first look into when we are vetting a nominee and when you check on the Report you will find that Mr. Ochieng brought almost everything that is required of him. He brought all the requirements as required by law and this part makes us agree that he is suitable for the post he is being nominated for.

When we were engaging him we asked all these questions that the answers are put here and he told us very well that he was hired by the County Government of Siaya as a consultant on the issues that were a problem to the County like BQ and was hired to come and advise through Visima Consultants. He came and found that the BQ's which were being done in Siaya were not professional and that is why we have been having all the BQ's and procurement issues. He has not taken long he has been here for about 3 months and he is now trying to put things in order. We

believe that now that he has also identified the problems that...

Hon. Oriaro: Point of order!

Hon. Speaker: Yes

Hon. Oriaro: Is the Member annulling your remark as to blacken the fact of the relation by the Members that he is already working because it is like you annulled it and he is now ably confirming it.

Hon. Speaker: Hon. Andiego it is out of order to mention a matter which the Speaker has given a ruling on. You should not revisit it. Take your Seat!

Hon. Andiego: Thank you, Mr. Speaker, Sir, I will not revisit it. When we were looking into the requirements that are required for the nominee to be approved, everything was in order and when we were practically engaging him he also identified that there were problems that he will be able to solve one by one.

There was also an issue of clustering of projects. He said that at the moment he is not employed and there was no way he could advice the Governor on how to do it but once he is given this chance he will be advising the person who is now in power. He will give the right direction to the employer. I want to put it very clearly that when we were engaging him he also said that it is not good to deny young upcoming contractors the jobs. They should also be part of it so that they can be upgraded to the standard which is required.

I am requesting the House that this young guy according to what we see in him he is able, young and energetic and if put with Mr. Chero who is the CECM he will help in much. Kindly may the House approve his name to make him be part of this sector? Thank you.

Hon. Speaker: Hon. Walter Okello.

Hon. Okello: Thank you, Mr. Speaker, Sir, for the opportunity. I will briefly add that if not for any other reason I stand to support the recommendation of the appointment of Mr. Ochieng on the fact that he is young. Rarely do you find people who are of a particular constitutional age bracket having amassed this sort of experience.

I want to thank the committee as well as the appointing authority for giving an opportunity to young people especially a native of Siaya County who has gone out there and invested in professional experience to the point that they could come back and serve their county. so I recommend him and I also want to commend the committee for a job well done.

I want to congratulate Mr. Joel Ochieng for having garnered this kind of experience at the age of 38. It is an inspiration to the youth of Siaya County to work hard and put their minds to what they do so that they get these opportunities.

I have been an MCA in this County. If you check his Excellency the Governor's candidate most of the time you would think you are in a meeting of octogenarians. I believe the average age currently of the cabinet as it were I could be wrong but it is around 75 years.

(Laughter)

For this fresh blood to be injected into this system, I believe this is the intervention that was needed for things to turn around. I want to agree with Hon. Andiego that there is no better pairing between the CECM, Mr. Chero who I believe is in that upper cut that I just talked

about and somebody who is almost half his age. I believe this is going to be a very good combination and they are going to turn around the infrastructure sector.

Finally I want to join colleagues in the concern that we could be having very good brains coming on board but the important thing is the wedge between the cabinet and structures to implement. Many are the times we have interacted with good CO's I was particularly impressed when I interacted with the current CO of Education but despite the wealth of knowledge that these people have a lot of the time they were bent on the ability to operate and implement the ideas.

Even as we approve the appointment of one Mr. Joel Ochieng it will also be important to pass a message to the head of the County Government that it is important to let people to implement the ideas and exercise their professional qualifications so that at the end of the day the people of Siaya will get service and value out of the very good people that we have so that when people have suggestions they will be taken on board without saying that their hands are tied as has always been the case.

Otherwise I support and I believe that this young man will offer value and inject fresh blood in that very old and tired cabinet. Thank you.

Hon. Speaker: Yes Hon. Augo.

Hon. Augo: Thank you, Mr.

Speaker, Sir, I would also like to add my voice to this Report. First of all I would like to congratulate the committee for their vetting of the nominee and as my colleague Hon. Walter has said, I am very happy to have this energetic young man who is well educated who will push Siaya somewhere.

We have been passing and vetting people in this House and our Hon.

Members have been crying about the age issue and in this position I am very happy that a young man who has a lot of energy will now help the CECM of roads without even thinking about where he comes from whether the CECM is from Ugunja and the CO is from the same sub county.

Why am I supporting? The nominee has seen what is lacking in Siaya that he is able to pursue and achieve a lot and that is why he said in number 14 that the latest challenge that the nominee noticed within is lack of communication between the County Assembly and the County Executive. We don't have lack of communication. The problem is that we communicate with them but they don't respond. Last time we had even the board members with us so there is nothing like communication.

When we go to number 8 and because I know as a CO that there is nothing that he is going to do if the CECM that works under him said he is not going to attend a particular meeting.

In number 8, again the committee further observed that the nominee was committed and had the best of the county at heart since he has worked in the county as a consultant maybe he has seen so many things lacking in the county and now he is able that is why he has decided to become part and parcel of this county.

I stand to support heavily that this young man must work with our county. Thank you.

Hon. Speaker: Yes, Hon. Booker.

Hon. Minami: Thank you, Mr.

Speaker, Sir, for the opportunity. I think you have seen the kind of contributions put by Hon. Members to add their voice to the debate. I think majority of us have spoken

on this report and the first speaker talked of the direction of the debate. It is going towards one direction.

There is one point that I would like to put across and I think Hon. Members should understand the meaning of the word communication. When somebody says there is lack of communication and you go ahead to quote that the Assembly communicates with the Executive but if it doesn't reply, that is lack of communication. Communication without response is no communication. Let us acknowledge that the Assembly gives reports to the Executive but they never respond the end result is no communication.

Many of the contributors that have contributed to this debate have said what I would say. I tell my colleagues to accept it and let the Mover reply so that we move forward.

(Applause)

Hon. Speaker: Hon. Odinga, what is it?

Hon. Odinga: I think what the Mover did not state very clearly is that when you say lack of communication it means there are no systems completely and a number of cases we have received even reports from different committees saying that they met CECMs and COs and on the basis of that that is what they are using to make reports to this House so when you say lack...

Hon. Speaker: The lack or presence of communication should not fundamentally change your view on this report. The Mover will reply and clarify what they meant by lack of communication.

Hon. Oriaro: Mr. Speaker, Sir, the principle of separation of power and the

one thing which should be observed here we are on record and it shall be public it is communication via the office of the County Secretary. It is like we are supporting the matter based on the suggestion of a CO who is not recognized in that realm so we should in its entirety not have our debate as a tether to that.

Hon. Speaker: I want to deal with Deputy Majority Leader and then the Hon. Majority Leader then if you allow I will call the Mover to reply.

Hon. Owii: Thank you, Mr. Speaker, Sir, I was almost making a decision to rest my case because I have seen the direction that this debate has taken. In the wisdom of this committee we have seen the best report more particularly in the situation where vetting is done. This is a decent report that is giving all the directions that we would need as a House. The truth is that I was very keen on the criterion which is supposed to be followed. They are keen on all those materials and everything else. What we have seen is that this guy appears over qualified and because of that reason and my colleagues have also talked why would I say that if you allow after the Hon. Majority Leader you give the chance to talk to me you should just call upon the Mover. Thank you.

Hon. Speaker: Yes Hon. Majority Leader.

Hon. Otieno: Thank you, Mr. Speaker, Sir, for seeing me now I had stood earlier. Still the same I wanted to make a brief contribution. We have been complaining that things are not working well in this docket because we have been lacking an expert in this eventually we have gotten one by the name Mr. Joel Ochieng. He is experienced and the time is

long overdue to get one to fill this position. We have mentioned the issue of BQ's that has hampered the effectiveness of working in this department. You have seen him with a lot of experience.

You go to page 8 number 10. I believe even us politicians when you go for campaigns and you want to be elected you must give your vision and what you would do to the people if you are elected. He says he promises to ensure timely starting of projects and proper completion of projects within Assembly particular period. Here is where we have had money going back to treasury because we cannot manage it. We have been lacking somebody like this in place.

He again promises to push for the employment of more staff in the department especially qualified field engineer to ensure proper and timely inspection of projects to ensure quality of work and help speed up payment of contractors. I remember Hon. Andiego one time bringing a Motion on why the contractors cannot be paid on time and I have seen Mr. Ochieng bringing the solution. I therefore support he be given the job Assembly the mood of the House is showing.

Lastly, as you are aware most of the people coming from Ugunja have been mercilessly sacked in this County Government.

(Applause)

Namely, Mr. Collins Owino, Mr. Okwako and Mr. Maura. It is not bad to get one from Ugunja. I rest my case.

Hon. Speaker: I call upon the Mover to reply.

Hon. Asewe: Thank you, Mr. Speaker, Sir, I would like to thank the Members for having deliberated on this

matter. I would also like to say that this department has also been neglected for a long time. I can remember a nominee was brought to this House and vetted but for some reasons he was not employed. It would be in order to pass this nominee so that he can be employed so that this department can get Assembly a CO since we are left with only 1 year I think it would be in order to accept this nominee so that whatever problems that are still pending in this department be handled.

Concerning lack of communication I think what the nominee meant was communication within this department. It is not total communication between the Assembly and the Executive but within this department because he was addressing questions within this department. I think he must have cited some of the areas that lack communication of which if we give him this opportunity I think we will be able to address those issues such that the department can move forward.

Concerning some of the documents that some of the Members were talking about though it is a requirement within the Standing Orders but committees are also an extension of this House. Whatever they have seen and confirmed that the documents are okay I think this House should be able to accept. During vetting the nominee didn't have enough time to explain everything that some of our Members are demanding he was only responding to questions that were forged by the committee members but if we give him time if he is employed, he will be able to answer some of the questions that are still pending so that this department can move forward.

Without going further I would like to urge this House to approve the nomination of these nominees, thank you.

(Question put and agreed to)
(Applauses)

MOTION

VETTING OF CHIEF OFFICER
NOMINEE

Hon. Adera: Mr. Speaker I wish to move a motion:

THAT the Committee resolves and urges the House that the nominees be referred back to the appointing authority to consider when nominating members of the County Executive Committee, ensure that to the fullest extent possible, the composition of the Executive Committee reflects the community and cultural diversity of the County; and take into account the principles of affirmative action as prescribed in the Constitution.

Committee mandate

S/No.	NAME OF NOMINEE	PORTFOLIO
1.	DAVE ANYONA KANUNDU	County Secretary.
2.	DR. CHARLES OLANG'O ONUDI	County Executive Committee Member in charge of Health Services.

Committee Meetings

The Committee held three meetings; on Wednesday 10th February 2016, Thursday 18th February 2016 for planning purposes and later convened at Bondo Sub County Chambers on 19th February 2016 during which the two

The Committee on Appointments is one of the Select Committees established under Standing Order No. 185 (1) which provides that, the Committee on Appointments shall consider, for approval by the House, appointments under Article (179(2)(b) of the Constitution (Members of County Executive Committee).

Nominations by H.E the Governor.

Pursuant to Article 179(2)(b) of the Constitution, H.E. the Governor, Cornel Rasanga, forwarded to the County Assembly through the Clerk's office, the names of two nominees vide letters dated 5th February 2016, and 21st December 2015 for vetting by the Committee on Appointments and consideration for approval by the County Assembly for appointment as a member of the Siaya County Executive Committee as hereunder;

nominees appeared before them and were vetted in accordance with the Siaya County Public Appointments Approval Act 2014.

BACKGROUND

Establishment of the Committee on Appointments

The Committee on Appointments is one of the Select Committees established under Standing Order No. 185(1) with the mandate to consider for approval by the House, appointments of County Executive Committee under Article 179(2)(b) of the Constitution.

The said Article requires H.E. the Governor to nominate and with the approval of the County Assembly, appoint County Executive Committee Members. Section 10 of the Siaya County Public Appointments Approval Act 2014, provides inter alia that, where the nomination of a candidate is rejected by the Assembly, the appointing authority may submit to the relevant House the name(s) of another candidate(s), and the procedure for approval specified in this Act shall apply accordingly.

Appointment Process of the Nominees

- (i) Pursuant to Article 179(2)(b) of the Constitution of Kenya 2010, H.E. the Governor forwarded to the County Assembly through the Clerk's office, the names of the nominees for vetting by the Committee on Appointments and consideration for approval by the County Assembly for appointments of the two nominees as County Secretary and Member of the Siaya

County Executive Committee in charge of Health Services respectively.

- (iii) The Honorable Speaker in a communication to the House on Tuesday 9th February 2016 informed the House that the County Assembly had received the names of the said nominees and directed that the names and Curriculum Vitae of the said nominees be referred to the Committee on Appointments for vetting and reporting to the House within 14 days pursuant to the Standing Orders.
- (iv) The public was invited to participate in the vetting process. Press and media announcements were made inviting the public to submit memoranda on the suitability or otherwise of the said nominees pursuant to Section 6(9) of the Siaya County Public Appointments Approval Act 2014. However, no memoranda were received from the public on the nominees or raising objection to their nomination.

VETTING OF THE NOMINEES

In conducting the vetting process, the Committee on Appointments examined the nominees against the following criteria,

amongst others, in accordance with the Siaya County Public Appointments Approval Act of 2014.

- (i) Academic qualifications
- (ii) Employment record
- (iii) Professional affiliations
- (iv) Potential conflict of interest
- (v) Knowledge of the relevant subject
- (vi) Overall suitability for the position
- (vii) Tax compliance
- (viii) Integrity

Dave Anyona Kanundu – County Secretary Nominee

Besides the above requirements, the committee also vetted the nominee as per the provisions of Section 44 of the County Government Act 2012 on appointment of the County Secretary.

Mr Dave Anyona Kanundu appeared before the Committee on Friday 19th February 2016. He submitted original copies of the following documents of which he had submitted copies before:-

- ID card
- Curriculum Vitae
- Academic and professional certificates
- Compliance Certificate from Kenya Revenue Authority (KRA)
- Clearance Certificate from Higher Education Loan Board (HELB)
- Duly filled self declaration form on Leadership and Integrity from Ethics and Anti-Corruption Commission (EACC)
- Clearance Certificate from Credit Reference Bureau (CRB)
- Clearance Certificate from Criminal Investigation Department (CID)

He stated to the Committee that;

- He is 58 years.
- He is a resident of Kanyaluo Ward, Rachuonyo Sub County, Homa Bay County.
- He holds a Bachelor of Arts degree in Political Science, Public Policy and Administration, Economics and International Relations from the University of Dar es Salaam, Tanzania, and a Post Graduate Diploma in Education from Kenyatta University, Kenya. He doubles up in consultancy in Monitoring and Evaluation, Strategic Planning, Employee and Work environment Surveys.
- He has over 20 years in public service as an educationist and has worked and consulted widely for the civil society organizations including International Republican Institute (IRI) and the Center for Multiparty Democracy.

- He is currently Senior Principal, Kijabe High School and has spearheaded the growth of the school from 500 to a population of over 1000 students.
- He will serve as head of the County Public Service and will be non partisan in the service to the county.
- That with the vast experience in leadership and management, he will improve the performance of the public service and in delivery of the required services in the County.

Committee Observations

The committee made the following observations:

- His experience in public service was limited to a school set up.
- He was number two (2) during the interviews and there was no explanation from the appointing authority as to why he picked on no. 2 despite the Siaya County Public Service Board having expressly recommended to the governor that number one (1) be appointed as *the most qualified for the post of the County Secretary given consideration on merit as per Section 65 of the County Government Act 2012* vide a letter ref. SYCNTY/GOVERNOR/CONF/VI L.1(21) dated 27th January 2016.
- The Committee further notes with concern that the position of the County Secretary had been previously advertised, interviews subsequently conducted but the results were not availed nor were the results forwarded to the County Assembly for consideration.
- Upon interrogation especially on his areas of consultancy as stated by him on the County Assembly vetting questionnaire, he could not convince the Committee as he was not consistent whether he indeed did offer the consultancy in the areas stated notably in the areas of training of County Assemblies. When probed further he changed the statement from having trained to having developed training materials.
- From the documents availed to the Committee, there was no documentation to certify or prove the alleged vast experience to the consultancy works undertaken as stated in his CV.
- The Committee was not convinced with his communication skills to benefit the position of the County

Secretary given the fact that he would be the one incharge of communication as per section 44 (3)c of the County Government Act, 2012.

- The Committee also learnt that he had transferred his credits from University of Nairobi (UON) where he had been from 1978-1981(4yrs) to University of Dar-es-salaam where he finished his bachelor degree having been expelled from UON. It is worth noting that having joined University of Dar-es-salaam in 1981 and transferred his credits, he completed his degree in one year and graduated (August 1982).
- On constitutional requirements, he brought all the required documents.

Dr. Charles Olang'o Onudi – County Executive Committee Member Nominee for the Department of Health Services.

In vetting the nominee, the committee also considered the provisions of Section 35 of the County Governments Act, 2012 on appointment of the County Executive Committee Member.

Dr. Charles Olang'o Onudi appeared before the Committee on Friday 19th February 2016. He submitted original copies of the following documents of which he had submitted copies before:-

- ID card
- Curriculum Vitae
- Academic and professional certificates
- Compliance Certificate from Kenya Revenue Authority (KRA)
- Clearance Certificate from Higher Education Loan Board (HELB)
- Duly filled self declaration form on Leadership and Integrity from Ethics and Anti-Corruption Commission (EACC)
- Clearance Certificate from Credit Reference Bureau (CRB)
- Clearance Certificate from Criminal Investigation Department (CID)

He stated to the Committee that;

- He is 60 years old.
- He comes from North West Kisumu Location, Maseno Division, in Kisumu County.
- He holds a Masters of Public Health (MPH) degree from Royal Tropical Institute, Amsterdam and Bachelor of Medicine and Bachelor of Surgery (MB.CHB) degree from the University of Nairobi.
- He has also attended other medical related courses in various institutions.

- He has over 30 years experience in the Health Sector rising from the position of medical officer in 1985 to the position of Director/CEO, Kenya Medical Training College, (KMTC), during which he was instrumental in creation of KMTC campuses in the County.
- He is well versed in formulation, interpretation and dissemination of Health Policies.
- That given the job, he will provide guidance, supervision and coordination of the Health staff and activities in the County in collaboration with other leaders from the region.
- That because of his vast experience in the sector and having previously worked in the County he understands the challenges facing the Health department. He will seek for networking with other NGOs such as UNICEF, DANIDA and IFAD. The challenges he cited includes, HIV prevalence. A matter that requires attitude and behavioural change and availability of supplies (ARVs).
- That his transformative leadership style will involve looking at what is already in place, what has not been achieved, then bringing on board all the key players as per the department's Strategic Plan.
- On financial management, he informed the Committee that budgetary allocations should be adhered to as passed by the Assembly and viament be done only if there is a Supplementary Budget.
- When asked about his feelings on being proposed from Kisumu County to a position previously held by somebody from Ugenya sub-county, he said that he sees himself as a professional and that the requirements for this position as was advertised was to be a Kenyan citizen and not necessarily from a section of Siaya County.
- When further asked on what he had specifically done to Siaya in the previous positions he held in Siaya, he stated that he had been instrumental in the establishment of the following: Siaya, Bondo, Ugenya and Rera Medical Training Colleges.
- A section of the Committee members felt that this position was supposed to be from Ugenya Sub-county as is the feeling from Ugenya constituents and as is

prescribed in Section 35(1) of the County Government Act, 2012.

Committee Observations:

- The Committee noted that he was an experienced professional worth his salt with vast experience in the health sector
- He is a master in his field and undertands the health indicators affecting Siaya County with a clear strategy to mitigate the negative indicators
- He had demonstrated good communication skills and good mastery of the challenges affecting the health sector in general in Siaya
- Despite his over 30 years of public service and when asked about his alleged previous display of arrogance , the Committee found him to be so humble and open throughout his interaction with the Committee.
- The Committee found him qualified as per the provisions of the Section 35 of the County Government Act, 2012, bearing in mind that the health sector in Siaya has had various challenges that require an experienced professional with necessary networks to deliver the much needed health services.

At the end of it this is where we had a tusle as aCommittee because if you look at the kind of wealth of experince especially this second candidate has it was diffecult to whether put as suitable or non suitable. We were trying to look at the Constitution and we found that one region of this County has not been well presented in the County Governemnt of Siaya. As a Commiittee we feel that Ugenya sub-County should be considered. The peopel of Ugenya feel that they are short changed and marginalised because if you look at the Cabinate appointment, no position is held by a person from Ugenya and that needs consideration. If you go to the posititon of CEOs we only have one position and i think that that one the people from Ugenya got after intense lobbying and infact after making alot of noise. So we feel if we make noise again is when our voices will be heard. Recently the appointing officer.....

(Applauses)

Hon. Speaker: Mr Deputy Speaker, are you referring to making noise as a comment?

Hon. Adera: Am doubling up as Member of that Committee and also as a representative from Ugenya, so i beg you to forgive me if you here any sentiments coming from me with direct attachment from Ugenya because there is where I reside.

Hon. Speaker: I want to ask you to withdraw the statement of us making noise when you are referring to a Committee Report.

Hon. Adera: If you direct I will withdraw that statement.

Hon. Speaker: Thank you!

Hon. Adera: I was taking about the composition of the Cabinet, if you go to Ugunja for example we have one Cabinet position that is roads. If you come to Bondo we have 2 positions infact 3 positions trade, water and we also have the deputy Governor sitting in the Cabinet. If you want names

(Loud consultations)

Hon. Speaker: Order! Order! Hon. Deputy Speaker. Yes Hon. Aneme!

Hon. Aneme: Mr Speaker we are being discoured, the deputy Speaker is confusing the system, he was giving the deliberation from the Report but what he is now doing is just talking about tribalism of communities. He is not even done with the Report but he has put it aside and he is now talking about Ugunja, Ugenya and Sidindi, can't he even read the Report to the end?

(Applauses)

Hon. Speaker: Hon. Mover of the motion can you stick to the Motion please!

Hon. Adera: I am trying to demonstrate to the House how far Ugenya sub County has been side lined and

everything does not need to be in the Report. Once am through with the Report i need to make my contribution then I call a seconder, that is the Order! So I dont know why some people are getting hurt when I mention that Bondo has 3 representatives in the Cabinet yet Ugenya has non.

Hon. Speaker: Hon. Adera can you proceed!

Hon. Adera: If you come to Gem we only have 1 position that is under Lands, if you go to Rarieda we have Education, if you go to Alego we have 3 positions that is Governance that is Mr Okello, Finance , Agriculture and of course we have the Governor which makes it 4 in number. We have been faced with similar challenges as the one we are facing today, in 2013/2014 there was a position for CECM Education that felt vacant and sometimes back when the position of CECM Roads fell vacant the same was replaced by somebody from the same sub County that was Ugunja, when the position of Health CECM felt vacant in 2013 it was filled with somebody from Ugenya sub County and that has been the trend. I dont know why the trend can change at this particular time.does it only change when the people of Ugenya are benfitting?

Hon. Speaker: Hon. Kowii.

Hon. Kowii: I don't want to second! I always depend on Deputy Speaker as somebody who can give us

direction at times such as this one. The Constitution is actually very clear that 70% of the nominees can come from the County while the 30% can come from outside the County. Who will talk for the 30% if we are now talking of Ugunja, Ugenya and that kind of arrangement?

Hon. Adera: Hon. Speaker is the Member contributing or is he standing on a point of Order? Wait for your time!

Hon. Speaker: Hon. Members you cannot be on your feet at the same time. Hon. Deputy Speaker who is the Mover I would urge you to proceed but if you have so much interest in that Report then you declare your interest.

Hon. Kowii: Am seated!

(Laughter and Applauses)

Hon. Adera: Thank you, Hon. Speaker Sir, as you have put it I don't have so much interest in fact I have limited interest. I wish to read as we have quoted in our Report here on section 35(1) under County Government act; Appointment of County Executive Members;

35. (1) The governor shall, when nominating members of the executive committee—

(a) ensure that to the fullest extent possible, the composition of the executive committee reflects the community and cultural diversity of the county; and

(2) The county assembly shall not approve nominations for appointment to the executive committee that do not take into account-

(Applauses)

I will not read all of it but just to ensure that to the fullest extent possible, the composition of the executive

committee reflects the community and cultural diversity within the County. This 3 does not capture the people of Ugenya sub County. In Ugenya sub County we have different communities, we have luhyas, Samias and in Hon. Ndonji's place we have the Wangas. We are saying that we want the Assembly to support this report as the Committee resolves and we urge this House that the nominees be referred back to the appointing authority to ensure that in nominating members to this County Executive Committee to the fullest extent possible, the composition of the Executive Committee reflects the cultural diversity of the County and take into consideration the affirmative action as prescribed in the Constitution of Kenya. I now call upon Hon. Gare to second.

(Hon. Gares stands to second)

(Question proposed)

Hon. Speaker: Hon. Zilpa Omondi!

Hon. Omondi: Thank you, Mr. Speaker, for this opportunity. I am on particular concern to the recommendations that this Committee, I believe that the Deputy Speaker is the Chair of that Committee. In particular reference to the Health docket and the last point over their observations, it says; the Committee ---

(Applause)

After talking so well on this doctor, you go to the last page and you were told you cannot, we should not recommend him for employment because he comes from Kisumu County. I find that one rather a serious observation. Is Siaya interested in service delivery or is it interested in tribalism? We have to choose. This

County, the health system is wanting and people die day and night. Hon. Members, go to this Referral Hospital and stay there even for six hours, you will see how people die there. Over 10 dead bodies in the morning, you can count them! And we are told that this is a very experienced person and that is what Siaya needs. What a contradiction! You talk good things then you contradict them! Are we interested in service delivery or are we interested in ministerial post? The Minister gets salary for himself and his family; he does not get funding or his salary for the community! We must get rid of such kind of thinking. Thank you, for that opportunity.

Hon. Speaker: Hon. Walter Okello!

Hon. Okello: Thank you, Mr. Speaker for giving me another opportunity to contribute on the matter of the floor. While thanking the work of the Committee, I also find it a little bit confusing and I would have wished if the Committee thought it wise to do the recommendations differently and separately from the two candidates. If you look at the picture we are given for the first candidate, supported by annex seeing that on the 27th January 2016, the Public Service Board wrote to County Government of Siaya on successful candidates and actually if you look at the last part of that letter it says that in our view therefore Agunda Ochanda is the most qualified for the post of Vice secretary given the considerations on merit as per section 65 of the County Government Act.

The one challenge that we have had in this County and this Country at large Kenya, is the element of appointments being done on anything else rather than meritocracy. The element of devolution,

the opportunity as a County of Siaya to put the meritocracy ahead of any other pointers, and therefore I find it strange when the appointing authority will overlook the recommendation of the County Public Service Board without any explanation go ahead and suggest to the Committee to appoint number two without any explanation given to the Committee as to how they arrived at number 2 instead of number 1! So I agree with the Committee entirely that unless there is sufficient explanation as to why Agunda Ochanda having satisfactorily met the requirement then both should have not been recommended for appointment and therefore agree with the Committee entirely.

I however found it very strange having listen to Deputy Speaker eloquently talk about DR Omondi and take us through his CV which apparently is very impressive from his own Report. I was at Bondo district Hospital yesterday to speak and to respond to a distress call of a youth who had been severely taken ill and am sorry to say that as we speak the man Mr Otieno Lou passed on at 2am in the morning and as I leave this place I am going to visit his family. So I feel personally hurt when I see somebody who is coming with a potential to eventualize the health sector in Siaya trying to be thrown out based on elements that are not related to service delivery at all. This is hurting and I want to believe that this is not the best position for the people of Siaya to be at right now and if the issue at hand is about sharing positions I believe that it is not that the docket of health was not meant for Ugunja neither Education a preserve for Rarieda nor Finance a preserve for Alego Usonga. And this is a reality that has been with us for the last 3

years and several months. If we are to rely on the reality of regional balance each of us have an opportunity to bring up a suppressive Motion to discuss about balance, equity and accountability.

I want to request fellow Members to stick to the subject at hand about meritocracy and service delivery which will be the basis with which Siaya people will judge us by the end of our term. We will not be judged by how we distributed the positions but on how best we had the interest of the people at heart. I therefore want to urge this House that if it is true based on your own recommendation that Dr. Onudi is as qualified as portrayed and I want to thank the Committee because I was part of the people who sat in that room as a member of the public to witness this interviews and I want to say as a member of the public that this gentleman did impress and answered the questions as stated in the Report.

So, I want to plead with you ladies and gentlemen if it is true that this Doctor is qualified as stated then let us give him the opportunity to serve Siaya County. But if there is someone who applied or who is coming from Ugunja and is more qualified or equal to Dr. Onudi let them come on board because I believe you could do a reshuffle because it doesn't mean that this guy has to stay in health department. So those are my submission though I will be guided by whatever resolutions the House takes.

(Applause and Loud consultations)

Hon. Speaker: Hon. Margaret!

Hon. Oketch: Thank you, Mr. Speaker, for giving me this opportunity. I would really like to talk on the nominee of the docket of health. Health is a very crucial department and when you are coming to the issues of vetting, it is really

crucial because there is an outbreak of cholera. We should not take these things lightly because of choosing this or that. The nominee has all the credentials and as much as I have seen his profile, somebody who has gone as far as bringing the MTC to Siaya, I don't think we should leave this nominee. He is the best and in my opinion, I would really like my colleagues to support and we give him a chance. Thank you.

Hon. Speaker: Hon. Awour!

Hon. Awour: Thank you, Mr.

Speaker. Allow me to first thank the Committee for a very good report from the start. I want to request this House for an amendment for the entire passage of this report. If you look at the recommendations, the report gives both, number one, for the CS which I want to agree with probably that should be returned to the executive but the other one who is the nominee for health worked so well in this County.

I want to tell my colleagues that this is a person that made Siaya to have several people who have been trained in either nursing or health records or public health. This person headed a very important institution and I therefore request Hon. Aneme to second the amendment that this House approves the engagement of Dr. Onudi to the docket of Health to this County.

(Applause)

Hon. Speaker: Hon. Awour, allow me to handle the post amendment at time some point, it will definitely come. Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Speaker, Sir. I agree with the report away from the weak aspect of, the polemical

aspect of the rhetoric's brought by the Deputy Speaker, I am agreeing with the report, he could not convince us, he lacked the language that is what I am referring to.

One thing I am happy with, the report is omnibus, so we will discuss it and discuss it interchangeably. One area that I want to agree with His Excellency the Governor that he was left with no option but to go by word of recommendations of the report of the Committee on Implementation that was approved by the House that within 60 days he must have initiated a process of finding a County Secretary not the CEC. That one I agree with him and thank him. But let truth be told, fortunately His Excellency the Governor was the Chair of professionals for Alego Usonga and he was also seconded to be the Chair of County professionals before becoming the Governor of Siaya.

His Excellency the Governor has been spending public money to ferry his CECMs and technocrats to go and attend to the forum initiated by, for instance Alego Usonga, the County Forum of professionals. It has been remarked here severally by visitors in this House in addressing us, Hon. Ekwe Ethuro, T.R.H. Raila Odinga that Siaya is a County of facts, everybody appreciates this. Does it mean Siaya County is deficient of professionals?

That is the area that should concern us, if it is in the area of medics my friend Dr. Muhuthia, has been the continental chair of pediatricians away from being the chair nationally and even the brother to the Governor has been one of the best doctors in the County. You will be surprised that each village is endowed with professionals be they radiologist, paramedics. What does the Governor tell us? He should have been

looking for the best to propel the County to greater heights and that's why it was my believe as I marked earlier that a society course like a society philosophy only can and shall be built out of the native materials.

The Governor tells us that Siaya County is lacking professionals, we must be questioning this and that one should be entrenched in that philosophy that was being pushed by the Hon. Deputy Speaker, only it lacked the language to convince the House. To that extend I want to remark Here and it should be on record, our deliberations have always gone on air. A lorry full of money was ferried to Nairobi to be taken to MPs' to convince Members, this is the spirit I'm seeing Here.

(Loud Consultations)

Hon. Speaker (Hon. Okode): Hon. Oriaro, you have a right to contribute when you do not interfere with our freedom as well. The rules are very clear; when you are out of Order you take your seat. And the rules are very clear; you cannot talk on things which you cannot substantiate, you put this House into dispute and will you please withdraw before you proceed.

Hon. Oriaro: Mr. Speaker, Sir, in the interest of the greater good, in the course to fraternity, I recoil on that.

Hon. Speaker (Hon. Okode): What is recoiling? You either withdraw---

Hon. Oriaro: As of now, I withdraw but I will have to push for the Tabling of evidence anytime soon. As I conclude, we really have to be genuine; in the docket of health as we are observing, we had a stone what professional, Chief Officer. Where has he been taken now? The substance of having men of credentials as to be the anchor of our support of the names Here is neither here nor there. We should concentrate on the

people we have and even built them up. Yesterday in the Standard newspaper, crazy Mondays, there is this one area that nobody has come up with; when I talked about Dr. Alfred Mutua being our son, he is I can prove.

(Loud Consultations)

Hon. Speaker (Hon. Okode): Will you withdraw from the Chambers, Hon. Oriaro? You cannot insist despite the several attempts I have made to make you calm as if you are the only person who has a right to speak in this House. Will you please leave the House?

(Hon. Oriaro leaves the Chambers)

We have our rules on debate which are very clear. Go out for 20minutes then you come back.

(Laughter)

Hon. Muhula: Mr. Speaker, Sir, what has been said here is something that must be supported because it is within the law. The law requires that 70% must come from within the County but again there was a leeway that prerogative to the Governor; that he can also employ by law 30% should be or must be coming outside the County. There is nothing that H.E. the Governor has done by employing or nominating a name that comes out from the County to be employed. However, the Deputy Speaker's concern was also valid, as a representative from our County from Ugenya; there is nothing wrong by wishing that one of their sons or daughters comes from Ugenya to be CEC of Health.

What brings me above is one, that the Committee on Selection comes and looks at the credibility of the candidates that are Here and then they talk of very good things about these people but at the end of the Report, they again contradict themselves on the very good credentials that they have put and displayed, explained

very well to the people or the Hon. Members of this House. What was the root to arriving and returning these nominees back to the Executive when they have said that they actually meeting the capacities that they have said they can be able to deliver what they are going to be engaged on; I still wonder?

The people who have been mentioned here are people who have impeccable records that given a chance would deliver their mandate very clearly. Nobody here possibly would be hearing Dr. Onundi for the first time, he is one person who was given KMTC and done it. He has worked in Siaya Here, worked in Bondo and Kisumu.

The only thing that is worrying is one; that the County Government of Siaya replaces the professionals with the unprofessional in the area that requires expertise. What we must agree is that there are areas that are relevant and we must appoint only people who understand principles of working there, health is one of them, same again to education, these are specialties that must bring credible crops out of whatever is supposed to be fetched there. It is undoubted that the way the Hon. Zilpa has said, the health sector in Siaya is wanting and can only be turned down but somebody who has only given good deliverables to the people and more so here in Nyanza and Dr. Onundi qualified.

Looking at the County Secretary, there is nothing that ties the Executive especially H.E. the Governor, because it is not only the qualification that we are working here but also given a chance can have a good relationship to work with the person who wants to be in your government and that is what goes with the secretaries, must be there. Maybe he had a reason why he chose number two, it

happens many times even in the National Government, so long as there was no malice in it that he did it and acted within the law. Still the County Secretary is qualified because we have looked at the qualifications they have.

What we need to do here is that we must put Siaya County first then our own interest should come second and in this case when you are looking at the nominee for the appointment of this Executive position. As I said we are not ruling out the Hon. Deputy Speaker, the concern is well prominent and very nice but again that issue of looking at the distribution in Siaya County and of course in the political lines it also gives mileage which we cannot rule out but for now I don't support the return of these nominees back to the Executive because for one thing they were vetted by the Appointment Committee and Selection and there were recommendations only that one contradicts what actually we understand. Let this House deliberate and see how best to pass this Report as at now. I stand to support.

Hon. Madialo: Mr. Speaker, Sir, may I start by stating the following, that it is in this role that the Assembly is playing, I see the most controversial provisions between the Constitution and our parliamentary enactments, because on one hand parliament says that the board shall vet these people and decide on whether they are qualified or not and then the board sends this to the Governor and refers them to the County Secretary and it is quite clear because it says Governor shall pick from amongst candidates that were competitively sourced which means if he is given four and the four are qualified and they have been competitively sourced. As the Hon. Muhula is putting it, we can take number four because it says from amongst

the candidates that have been competitively sourced.

The Hon. Deputy Speaker had an important point to put across that the 30% thing also comes in. I stand not to support for now even though I'm part of the Report, I seek directions and even the direction the House is taking and given also the reading of the minds of contributors, somebody might seek to amend a Report that doesn't talk about suitable or unsuitable then it means the amendment might not stand.

I seek direction if you will allow that you state the discussion of this Report and reconvene your Committee because you are the Chair to discuss and make an express determination on these nominees earliest so that we come back to this House because that seems to be what they are saying with the decision that says suitable or not suitable.

Hon. Minami: Thank you, Mr. Speaker, Sir, as we wait for your direction on the issue that has been raised by Hon. Madialo, at the moment the Assembly is seized on this Report. If the Committee where I seat was not able to give expressly whether nominee number one is suitable or nominee number two is suitable.

Then now it is the mandate of this House to decide and at that juncture any amendments as maybe brought by any Member would still hold water. I think what would have been important especially from that Committee; they would have given us direction and I want to support what Hon. Okelo said; that the Committee would have separated the nominee because they were vetted differently. They never sat on the same Chair at the same time and that the good thing this Committee could have done for this House is to give separate

recommendations on each and every nominee and as a House we will be having an easy time. The issues as raised by the Deputy Speaker might have not been capture in this Report, imagine the people of Ugenya wherever they are.

The Cabinet of the County government of Siaya is sitting somewhere in Siaya and there is no single representative from Ugenya, a cabinet with almost eleven members. Siaya has only six constituencies and no single Member is from Ugenya constituency, how do the people of Ugenya feel wherever they are? We might be following the law 70-30 but when that common man is there, how would you feel if it was you? As much as we want to quote the issue of 70-30 let us remember our people. It is really a very hard nut for the Ugenya people to crack especially when they go back that none of the sons or daughters of Ugenya seats in the Cabinet of the County Government of Siaya, not even a single one and we have about ten Cabinet secretaries and Siaya has got only six which in any case each sub county should have gotten at least two.

Hon. Minami: Mr. Speaker---

Hon. Speaker (Hon. Okode): Yes, Hon. Okelo.

Hon. Okelo: This maybe appear tribal but I'm concerned that the people of Ugenya have the first lady---

(Laughter)

Hon. Speaker (Hon. Okode): Hon. Walter Okelo we are discussing a very weighty matter Here and it cannot even be cured by people from even Asembo marrying all women from one region and therefore---. Hon. Booker had you finished?

Hon. Minami: I'm almost. Hon. Okelo, just a few minutes ago accused this Government and now he wants to support

it. My suggestion is we separate these things, I have seen Dr. Onundi is totally qualified and it is a fact that we cannot dispute and if he has been nominated for that position then I will propose that we request the Governor that the position for County secretary which I'm seeing Here has not been filled, let's go to Ugenya and the people of Ugenya will have somebody in the Cabinet, that will help in curing this thing so that the County Government is very specific. But you see we cannot leave such a qualified person in the name of ---

(Applause)

I think we will sacrifice somebody else but not Dr. Onundi, thank you very much.

Hon. Speaker (Hon. Okode): Hon. Members, I want to give the Mover the opportunity to talk then I will consider whether to give direction of not, yes, Hon. Deputy Speaker.

Hon. Adera: Thank you, Mr. Speaker, Sir, I think there is a misconception. The sole reason why we recommended as a Committee that the list be referred back to the Executive to the appointing officer was to consider what the Members---. We are not rejecting the names that is we didn't want to recommend that they are suitable or unsuitable because if we pass Here that they are unsuitable then we are sealing the fate of the candidates but we have given a window to the Governor to relook at the list vis-à-vis the appointees in his office so that if he can reshuffle and bring back the list, that is the segment that the Members have not understood.

We had left the window that we refer the list back to the Governor then the Governor has got the right to bring this back with recommendations and that is why we even said that the candidates

especially the doctor is very suitable and even now personally in my heart I know Dr. Onundi from the observations we have heard. You will realize no one has got an issue with Dr. Onundi but we are giving a window back to the appointing officer to look at it vis-à-vis regional balancing.

Secondly, the main reason why we are avoiding to put whether suitable or not suitable, if you look at the County Government Act section 35 (2) The County Assembly shall not approve nominations for appointment to the executive committee that do not take into account— (a) not more than two thirds of either gender;(b) representation of the minorities, marginalized groups and communities; and(c) community and cultural diversity within the county. Whether you propose for amendments, we are restricted under the County Government Act from passing; there is no amendment that you can bring from this juncture because we are prohibited by section 35. The Standing Orders also prohibit bidders from discussing amendments that come 24hours late after the Assembly has already commenced. But the one spirit that we have is that all the Appointment Committee Members are in support of the candidate we are talking about but this is why we are referring to this part, the Government of Siaya can do the reshuffling then see whether the Ugenya people are being given the position of County Secretary, that is the right of Executive to decide not the Assembly. That is the clarification that I wanted to make.

Hon. Odinga: Thank you, Mr. Speaker, Sir, it pains at times when it is coming from the Mover. I remember his first words when he started reading this Report. He said that the recommendation

was given out of heavy hearts by the membership and you can even see it from one member who said this considering that if this can be put aside so that Members can agree then the House may also agree. I don't want to speak for the House but I'm in a catch 22 situation with this Report. Whereby the Committee is saying that this proposed health CEC is overqualified for the position then at the same time when the Mover was citing the reason for referring back the appointees to the authority, is mentioning section 35 on the County Government Act which actually tells us about regional balancing.

It is true that you can even see it in the composition of the Governor that Ugenya is nowhere in the cabinet and this was the only opportunity where the Ugenya people may be brought back in the cabinet. There is even a proposal by Hon. Minami, for the position of County Secretary, how I wish that the Mover of this Report withdraw his Report so that they go sit down and make a recommendation based on each and every Committee. The recommendation here is that when we adopt the Report, all the names will be referred back to appointing authority. How I wish just as other Members have said that these observation and recommendation should be made for each and every appointee.

I want to give an example of where I get confused when I'm reading this this Report, refer to page 8 under Committee observations, bullet number two is saying that this person was number two during interviews and there was no explanation from the appointing authority as to why they picked on number two. I want to leave it there; we go to the next bullet, saying that the Committee under votes and concern that the position of

County Secretary had been previously advertised, interviews subsequently connected but the results were not availed nor forwarded to the County Assembly for consideration.

I get confused; the first bullet is saying that this County Secretary and the choice by the appointing authority picked number two. Again bullet number three is saying that no results were produced by the County Public Service Board. So which is which? The number two was based on which results? Based on that, I wish that the Chair or the Mover of this Report, withdraw it, go seat back as a Committee and make recommendations that will guide this House once and for all. Thank you.

Hon. Speaker (Hon. Okode): Are there any contributions? Yes, Hon. Ndonji.

Hon. Ndonji: Thank you. Mr. Speaker, Sir, first I want to say that it is true that we have to follow the Constitution and the Constitution should not be followed selectively. As a matter of fact it is the same Constitution that talks about regional balancing as read by Hon. Adera who actually presented this Report. In Siaya, what we consider as being the regions are the sub counties and that is what has been done in any other thing in this County. The law about 70-30%, even these people are considered will not have reached that 70-30% which means that the law has already been broken and they are continuing to break this law.

When we talk about the Health and Education department should be having people who are professionally qualified. You will realize that as we speak right now, the Chief Officer for Health and Education were interchanged there was that reshuffle which means that if that is what we are considering, already we are

doing a wrong thing within the County. I want to say that it is not only these qualifications that are considered, by the Constitution there are a number of factors that are supposed to be considered one of them being the 70-30% rule and at the same time regional balancing has to be considered. And therefore if we can talk about the 30-70% rule and we don't consider regional balancing then we are doing a disfavor to this County and there are people who are ill motives about other areas within the County.

I also want to say that even the immediate former Health CEC had a very colorful past; he also had very good papers and that never stopped the Governor from sacking him. I also want to say that we are seeing malice in this because as a matter of fact there are problems in different departments and you find that when there is a problem in a department it is the CEC who gets to be sacked but you realize that in some departments it is not the CEC who gets sacked but the people who are under the CEC.

That shows that there is discrimination and there some CECs who are untouchable. It is only recently that the PIC/PAC Report recommended that action be taken against CECs who refused to come and attend their sittings when they were summoned; nothing has been done to them which means that even when the whip is brought up it is used to whip---

Hon. Muhula: Point of Order!

Hon. Speaker (Hon. Okode): Yes!

Hon. Muhula: Mr. Speaker, Sir, we are not discussing the issue of sacking we are talking about engagement of new people coming in the government. Is the Hon. Member introducing a new Motion?

Hon. Speaker (Hon. Okode): Hon. Ndonji, proceed!

Hon. Ndonji: It is true that seemingly there are some CECs who are untouchable and I'm talking about this because the sacking of the person who was holding this position, you cannot compare it to whatever is happening to the finance department for example and you find that the CEC finance, there is nothing that is being done there. We have been having problems only to do with finance, there is nothing that is being done there.

Hon. Speaker (Hon. Okode): Hon. Ndonji confine yourself to the debate.

Hon. Ndonji: Much obliged, I have no problem with anybody from anywhere coming to work within the County but I have a problem with breaking the law in that there is no balance in the cabinet. There is no way which you can tell me that a cabinet in which four people come from one Sub County within the County and the same cabinet two people come from one region of the County and there is a region that is not represented in the cabinet.

In the County Public Service Board, if you look at the balancing of the C.O.s it is really affecting the people of Ugenya. We have to look into this issue of regional balancing, going through the Report it has been put very clearly that one Mr. Agunda Ochanda, emerged first during this interview. It beats logic that this one was given out and it was highlighted that Mr. Agunda was number one which was good. We don't know what position Dr. Onundi took during the interviews. It has not been clarified so nobody can tell me that he was the best from that interview but his name came Here.

Lastly, I don't want to say that we the people of Ugenya feel left out and I want to say that if anybody feels that

people of Ugenya are not part of Siaya County then I want to say that even during campaigns let people campaign where they feel that is Siaya County like Homabay and Kisumu County, thank you.

Hon. Ajwang: Thank you, Mr. Speaker, Sir, for allowing me to air my views on this Motion. Even though we are taking it lightly but it's not, wherever somebody has been interviewed from Ugunja you will find that the person's name is out at the time of appointment. If somebody is position one and even the County Public service board went as far as quoting inside here that the said person is qualified and yet I have heard that even if you were position one the Governor is the one to choose. Devolution should serve all of us, surely let's not call a spade a spoon, the people of Ugunja have been sidelined.

Hon. Speaker (Hon. Okode): Hon. Owii.

Hon. Owii: Thank you, Mr. Speaker, Sir; for sure this is a very weighty matter. This one turned to be a betrayal of the highest order from a Committee that we respect that they give recommendation of one person then they say he is highly qualified. If you read the Committee observations; the Committee noted that he was an experienced professional with vast experience in the Health sector. He is a master in his field and understands the health indicators affecting Siaya County with a clear strategy to mitigate the negative indicators. This is a man that we will now compel with others, why can't we just accept to separate the two, why?

(Applause)

Hon. Speaker: Just a point of correction. The recommendation at the

bottom of that report is not referring to the suitability or the unsuitability of the candidate

(Applause)

That recommendation is simply talking about the nominees being taken back to the Executive without the Assembly having pronounced itself on their suitability. In fact even if I will put a question here on the suitability and you vote otherwise, you vote against this report, it will not mean that this report will die, it will simply mean that the names are not being taken back, you are debating the names one by one here before the 14 days elapse. So, as you make your contributions look at the House returning the names to the appointing authority to consider the provisions of the law. Will you proceed!

Hon. Owii: Mr. Speaker, Sir, from the explanation that you have given the truth be told, I don't need to continue.

Hon. Speaker: I think this matter is now too debated and we need to make a determination on it, unless somebody feels the Chair is denying him an opportunity to talk and if it is repetitive I will stop you.

Hon. Shaban: Thank you, Mr. Speaker, Sir. There is one thing that I want to clarify to the House as a Member of the Appointments Committee. Most Members have been saying that we should pass one candidate and deny the other one, one is suitable and the other one not suitable. The reason we have said both of them to be returned, it is political because we people from Ugenya feel we should give the appointing authority a chance and if we give a chance we will have two possibilities.

If we only have one possibility will not have hope but when we have two

at least the people of Ugenya will have hope. So I think the House let us refer the names back to the appointing authority so that we have two possibilities so that the people of Ugenya can get one. Thank you.

Hon. Speaker: Yes, Hon.

Majority Leader!

Hon. Otieno: Thank you, Mr. Speaker. I was at pain some two weeks back when a delegation from Ugenya came to my home that Edwin you as a Majority Leader, why are you letting Ugenya not get a stake in the Executive. I lacked words but I had to comfort them that we as leaders we will go there to harmonize and get a way forward on how Ugenya should also get a slot in the Executive. Mr. Speaker, it will be bad that I let this thing go un comment able and truth be said, Ugenya people deserve a slot in the Executive.

(Applause)

Whether we are talking of 70/30, on political side, this thing is affecting us back at home that Ugenya must also be included in the Executive Committee. Thank you, Mr. Speaker.

(Applause)

Hon. Speaker: Hon. Members, I was once asked to give direction on this matter, at some point also a Member proposed an amendment to this report, actually two amendments, one was separation and the other one was on inclusion of suitability sentence in the report for a candidate of his choice. Contributions also emerged when the mover said that we are out of the time framework within which we can move amendments, on the issue of time of

moving amendments I want to exempt the movers because the report itself came just when we had begun discussions.

So, I will not victimize you or deny you chance for that matter, I will want to employ what will give all of us fairness in the determination that you will take. The Committee has proposed that the names be referred back to the Executive so that the appointing authority can consider the face of the cabinet if it indeed reflects the spirit of the law. I want to advice this way, that that Motion is either live in this House, it has not been amended, it has not been withdrawn, I think the Assembly pronounces itself on that Motion by way of voting on whether the names will be taken back or not.

In other words, if we support the Committee recommendation then the names will be taken back to the Executive, if we don't support, then the Committee will have to bring back a report latest tomorrow morning because tomorrow is the 14th day pronouncing itself on the suitability or otherwise of each candidate. It is on that that you will also take a position. Should that report be brought tomorrow, assuming that you reject the position of this Committee, then we will allow amendments on the floor disregarding the position of 24 hours because the time at which it would have come could have been too soon. And if you allow me, I call upon the mover to reply.

Hon. Adera: Thank you, once again Mr. Speaker. I want to be very brief, but first I wish to thank the Hon. Members who gave their contributions to this report. When we started, I think it was bit ----but at the end of it I have seen Members sobering up and they now understand the

circumstances under which the Committee made the recommendation. We have talked about experience vis- a- vis balancing and Mr. Speaker, I don't want to go back to that because we have exhausted the same but when you look at the Constitution, there is a section the Committee ---felt that we need to do regional balancing.

The report does not recommend that we find anybody suitable or unsuitable, the report simply talks about taking the report back to the appointing authority then at their own time they can consider the issues that we have raised which are paramount to the issue of regional balancing. There are no contradictions in this report at all.

I also wish to respond to Hon. Jack Odinga page 8, where he stated that there were interviews that were done and that no results were released. It was in the public domain that an interview was done sometimes last year and even the names that were approved went to the public. The one that we are talking about is the 2nd interview not the 1st one, so Hon. Jack, I hope that the Member ---

Hon. Speaker, another Member said that Ugenya people should be satisfied because the First lady comes that region, I don't think I really need to respond to that because I am aware when the appointing authority took the lady from Ugenya he must have paid dowry and dowry is not adequate, we cannot compare dowry to serious appointments that the Ugenya people are looking for.

So, Hon. Members I urge you, let us refer the names back to the Executive, we shall reconsider them again, in fact any name still can come back, there is still a window. We did not want to shut it by simply saying suitable or not suitable,

otherwise we would have blocked the candidates totally or permanently but we have left a window still the appointing authority can bring back the names. With those few remarks, I thank the House, thank you so much.

Hon. Speaker: Will you ring the bell so that if there is anybody out there who want to take vote. Just for clarification, the vote we are taking now is simply on returning the names not on the suitability or otherwise of the nominees.

If you support the report, if you vote Aye, then it means the names will go back, if you say Nay, it means the House will have to reconsider those names one by one and make a determination on whether they are suitable or unsuitable and it will depend, if the House feels we can square it now, we will do it now and here. If the House feels we do it tomorrow, fine! Now, I am going to put the question. If there is any Member outside, they need to come in.

Now I put the question that this House approves the report of the Committee on Appointments on vetting of County Executive Committee Member in charge of Health and the County Secretary laid on the Table of the House today Tuesday, 23rd February, 2016. ---felt that these nominees be referred back to the appointing authority to ensure that in nominating members to the County Executive Committee to the fullest extent possible the composition of the Executive Committee reflects the cultural diversity of the County and takes into consideration the affirmative action as prescribed in the Constitution of Kenya.

(The Hon. Speaker, could not catch the voices of Hon. Members)

(Laughter)

Hon. Speaker: The question we are putting, if you say Aye, you support the report, the report which says that the names be referred back to the appointing authority, if you say that we will be done, so we give it to the Executive to consider either bringing back the same names or other names to occupy the positions that are vacant. If you say No, then we deal with it here name by name, on whether they are suitable or unsuitable. I hope that has been heard.

I put the question, Hon. Members, which is:

THAT this House approves the report of the Committee on Appointments of vetting of the CEC in charge of Health and the County Secretary laid on the Table of the House today Tuesday the 23rd of February, 2016 which is to the effect that the House resolves that the nominees be referred back to the appointing authority to ensure that in nominating members of the County Executive Committee to the fullest extent possible to the composition of the Executive Committee reflects the cultural diversity of the County and takes into consideration the affirmative action as prescribed in the Constitution of Kenya.

(The Hon. Speaker cannot catch the voices of the Hon. Members)

Hon. Speaker: Therefore we are going to division, ballot!

(The division bell is rung)

Hon. Speaker: Order, order Members!

Hon. Minami: Our Standing Orders states that this Assembly can only

sit from 2.00 p.m. up to 6.30 p.m. so, Mr. Speaker, because of the decision that we have just given out, I am requesting for extension of time by about 30 minutes. I request Hon. Owii to second.

Hon. Speaker: Hon. Owii!

Hon. Owii: Mr. Speaker, Sir, I have no alternative but I support.

Hon. Speaker: Anybody with an alternative!

(Laughter)

There being no alternative, we extend. The Clerks prepare for voting. Members take your seats, Order! Take your seats.

(Loud Consultations)

Hon. Speaker (Hon. Okode): If you are thrown out on a point of order then it will appear as if the Speaker has rigged the results.

(Loud Consultations)

Hon. Speaker (Hon. Okode): This is our Standing Orders on roll call division

69. Roll call Division claimed

(1) The Speaker shall direct a roll call vote to be taken if a Member claims a Division and-

(a) The Speaker considers that there is a reasonable doubt as to the outcome of the vote in question; or

(b) if, on a question other than a question of procedure, five or more Members rise in their places to support the Member claiming the roll call Division.

(2) The Speaker shall direct a Division to be taken in every instance where the Constitution lays down that a fixed majority is necessary to decide any question. \

70. Roll call voting

(1) When the Speaker directs a roll call voting to be taken, the Division Bell shall be rung for five minutes.

(2) The names of one Teller for the *Ayes* and one Teller for the *Nays* shall be submitted to the Speaker and the Speaker shall direct the Tellers to take seats at a designated place.

(3) At the end of five minutes, the Speaker shall direct the doors to be locked and the Bar drawn and no Member shall thereafter enter or leave the House until after the roll call vote has been taken.

(4) When the doors have been locked and the Bar drawn and the names of the Tellers have been announced, the Speaker shall put the question again and direct the Clerk to call out the names of Members in alphabetical order in the presence of the Tellers.

(5) When called out, each Member shall, thereupon rise in his or her place and declare assent or dissent to the question in the following manner, *I vote Yes* or, *I vote No* or, *I Abstain*, use appropriate Kenyan Sign Language or whatever method convenient to members with disabilities of a special nature.

(6) After the Clerk has read the last name in the Division list, the Tellers shall present the result of the roll call vote to the Speaker who shall thereupon announce the result of the vote to the House.

As we had said before, matters of appointments are always tricky and I wouldn't want you to leave here with fear hanging around your necks. So when you will come here when your name is called, you will take the piece of paper and you will write yes or no; and when you write yes, it means the names are all going back to the Governor, if you write no, it means this House will have to consider those names again on their suitability individually.

Therefore I want to put the question; that this House approves the Report on Committee on Appointments on vetting of CECM in charge of Health and County Secretary laid on the Table of the House today, Tuesday 23rd February, 2016 with the effect that the House resolve that the nominees be referred back appointing

authority to ensure that in nominating the Members of the County Executive Committee to the fullest extent possible the composition of the Executive Committee reflects the cultural diversity of the County and takes into consideration the affirmative action as prescribed in the Constitution of Kenya. Will the Clerk start by calling out the names. Feel free to vote from Here.

Hon. Speaker: I think we don't have facts to ascertain. I just want to clarify something which the Hon. Member started with that it is in violation that we get a name of somebody who is already working in the County Government. In the appointment of Chief Officers County Government Act says that the Governor shall nominate qualified and experienced County Chief Officer from among persons competitively sourced and recommended by the County Public Service Board that does not limit even if he was working in the County Government.

(Applause)

Unto that we will establish and share with you tomorrow. I just want to remind you that it is out of order to say something which is not factual in this House. Proceed.

Hon. Muhula: Mr. Speaker, Sir, I stand with authority in this House to confirm to you that you have said they will get it tomorrow but what I will say in my clarification is that there can never be anything to stop the Governor from appointing the person who is working for a position that is advertised. Somebody should not be brought to this House having served in the position that we are vetting to recruit.

Hon. Speaker: Hon. Muhula that is not right because for example we could have a County Secretary say Mr. Marube

working now and a position is advertised and then he comes, he will still just be vetted.

(Applause)

Hon. Muhula: Most obliged Mr. Speaker, Sir. I see the response of the vetting committee asking the question of how the officer is going to work and it is indicated that the payment of contractors had informed the committee that it will be digitalized. The payment of contractors is already digitalized through IFMIS so I don't know what the CO was coming to digitalize.

On the issue of having the conflict of interest I see a lot of it because at one time this nominee represented a company that is already engaged by this County Government. I still don't see anything that can stop him from enhancing those vested interests or conflicts of interest.

On the issue of communication between the Assembly and the Executive, there are only 2 offices that are allowed to enhance it and they are the CO of the Governor and the CS of the County Government of Siaya. The duty that we employed him to do is just one, to ensure that the projects are done and target achieved. The roads should be good all the buildings should be in order that is the reason why we are employing this person.

I still have a very big issue on the trust that I Hon. Peter Muhula, can give this nominee have that employment in that case. I stand to reject the Report.

Hon. Speaker: Yes Hon. Deputy Speaker.

Hon. Adera: Thank you, Mr. Speaker, Sir, I also wish to add my voice to this Report. Personally I have perused the Report and on the part of the CV I can

see that this is a very experienced candidate who really deserves such a position. The experience that he has I want to believe will help this county move forward. In the past we have had certain problems but I believe we are now bringing in people with a lot of experience that can give us assistance.

I want to be very brief. This candidate has said in his own words that he will stamp his foot down when it comes to corruption within his docket. We are all aware that corruption is almost bringing this County down to its knees. If we can assure that the committee can enforce and the Assembly at large that they will fight corruption then this is the right person. We know a lot of money has been embezzled in this docket but if he is ready to fight it head on then as an Assembly we don't see any need of denying this gentleman this job.

He also promised to ensure timely starting of projects to ensure proper completion of projects. Everyone is aware that the County Government of Siaya has started several projects some are not timely, some are timely but again they stall along the way. Some were started several years back and to date they have never been completed so if he can really do as he stated before the committee then I believe that this is the right candidate for this job.

However just as one Member had already noted I was sharing with my brother here that how comes the CEC of Roads is coming from Ugunja and again the CO is also coming from Ugunja. I think the appointing authority made a mistake. It is not our agreement but I can see that the department of roads is going to Ugunja. I want to believe that they will not work in unity.

Hon. Owii: Point of Order!

Hon. Speaker: Yes Hon. Deputy Majority Leader.

Hon. Owii: Thank you, Mr. Speaker, Sir, I wonder if the Hon. Deputy Speaker is the person we would entrust as somebody to give us direction on this matter. He could not see that the vetting of a nominee like this one is done against some criteria and the criteria has been put here. I don't see in any of them where it says that where the CEC comes from is actually one area where we should not get a CO. It is an academic qualification I just hope it is me...

Hon. Adera: Is the Member giving his contribution or he is standing on a point of order? If he is giving his contribution he should come later and...

Hon. Owii: I am not giving my contribution I am just giving him direction that he should talk when he knows that there is a criteria.

Hon. Speaker: Hon. Owii what is your point of order?

Hon. Owii: That he should stick to the criteria which is put for vetting the nominees.

Hon. Speaker: You are finding the Hon. Member irrelevant?

Hon. Owii: Very irrelevant.

Hon. Speaker: Issues of relevance are within our Standing Orders but from the contribution of the Hon. Member, I think he was saying that that is an observation he has made. I don't think he is putting his support or lack of it based on that. Hon. Deputy Speaker, enlighten the House.

Hon. Adera: Thank you, Mr. Speaker, Sir, Hon. K'Owii as a senior Member of this Assembly is much aware that once you are citing a Member to be out of order then you should also cite that

Standing Order one has breached. I believe I have not breached any.

Hon. Speaker: Hon. Deputy Speaker you also know that you should not repeat yourself.

Hon. Adera: Thank you, Mr. Speaker, Sir, I am concerned with that point that both the CEC and the CO are coming from the same area. They may decide to take the office of the Department of Roads to Ugunja Sub County. I want to believe they will not behave that way.

On clustering, there is one tactful question which he answered that on clustering of projects he said it had its own merits and demerits and he was ready to advice on the best way forward. I think this candidate was trying to avoid answering this question because it is an issue that was discussed in this county because contractors are crying that the County Government of Siaya has clustered so many projects together. What will the young contractors gain from it? So he didn't want to contradict his boss who is supposed to give him the job that is why he said I will look at its own merits and demerits and advice as time goes. He ought to have come clean on this issue so that we give the young contractors in this county the chance to do business with the county but not to avoid questions.

(Applause)

He has vast experience with Siaya County Government where he has worked as a consultant. He has also worked as a consultant under the hospice of Visima Consultants incorporation of BQ's and formulation of water tight payment system for contractors. It means that this guy has been party to delay of contractor's money.

(Applause)

We are aware that it is a crime that they have not been paid yet there is a lot of money lying in our county. I am only impressed with the experience and academic qualifications of this guy but I have issues with him. However I support.

(Laughter)

Hon. Speaker: Hon. Member for Ukwala.

Hon. Odinga: Thank you, Mr. Speaker, Sir. I want to join my colleagues in supporting this report. Based on the vetting, I think it is very important that at this juncture we engage a technocrat, somebody who really understands what is happening in the Works Department.

I want to pick it from where Hon. Adera left it. I was saying that this man has been engaged by the Siaya County Government in terms of development of BQ's the same was said by Hon. Muhula but when you are engaged as a consultant the only thing is that you develop the system but you now leave it for the government.

(Applause)

Could be that this person developed engineered estimates but when it came to implementation this was not done by the County Government. It was not his problem and now looking at whatever budget we have done that is 2013/2014 and 2014/2015 we have had a lot of problems costing for the roads. You find that in quite a number of cases we have complained that whatever is being put in the budget is by someone working from the office. Someone would just sit here in Siaya and estimate that a road from point A to point B would be such Assembly number of kilometers that would cost say Kshs. 3 or 4 million but

now this is coming at the right time when we are planning to do 2016/2017 Budget and how I wish that this gentleman would go round and inspect these roads and ensure that whatever we are putting in the Budget of 2016 /2017 would be the actual cost this would avoid the cases of under budgeting or over budgeting.

There is one area in page 8 item 14 where he is saying that the greatest challenge that the nominee noticed is that there is lack of communication between the County Executive and the County Assembly. I want to disagree with this because a number of times we have passed resolutions as a House but the only thing that is lacking is feedback. The Assembly has been communicating with the Executive through the office of the Clerk. The thing is that we have not been receiving feedback and this can be confirmed by Hon. Oriaro who is the Chair of the Implementation Committee that a number of times he has been taken round and round in terms of feedback following up on the resolutions of this House.

Otherwise I support and the fact that they are coming from the same sub county with the CEC I don't think it means that they will be colliding. However we are saying as people who come from Ugenya, we also need to be considered when making these appointments.

(Applause)

Hon. Speaker: Yes Hon. Andiego.

Hon. Andiego: Thank you, Mr. Speaker, Sir, I start by saying that I am a Member of this committee. I came one on one with this nominee and I want to tell this House that the nominee is a very young, active and is very much able to turn

things around as has been explained in this Report.

I once met Mr. Joel Ochieng Oduor as an MCA before I knew that one day he will be nominated as Chief Officer of Roads and Public Works. When I had a problem in my Ward about the roads and I was directed to Mr. Ochieng, within 2 hours of our talk things were done and I asked myself, where is this man from? Later when we were given his name as a nominee I was persuaded that this man would be very good if he is taken to be the CO of roads and public works.

According to our Constitution there are things that we first look into when we are vetting a nominee and when you check on the Report you will find that Mr. Ochieng brought almost everything that is required of him. He brought all the requirements as required by law and this part makes us agree that he is suitable for the post he is being nominated for.

When we were engaging him we asked all these questions that the answers are put here and he told us very well that he was hired by the County Government of Siaya as a consultant on the issues that were a problem to the County like BQ and was hired to come and advise through Visima Consultants. He came and found that the BQ's which were being done in Siaya were not professional and that is why we have been having all the BQ's and procurement issues. He has not taken long he has been here for about 3 months and he is now trying to put things in order. We believe that now that he has also identified the problems that...

Hon. Oriaro: Point of order!

Hon. Speaker: Yes

Hon. Oriaro: Is the Member annulling your remark as to blacken the fact of the relation by the Members that he

is already working because it is like you annulled it and he is now ably confirming it.

Hon. Speaker: Hon. Andiego it is out of order to mention a matter which the Speaker has given a ruling on. You should not revisit it. Take your Seat!

Hon. Andiego: Thank you, Mr. Speaker, Sir, I will not revisit it. When we were looking into the requirements that are required for the nominee to be approved, everything was in order and when we were practically engaging him he also identified that there were problems that he will be able to solve one by one.

There was also an issue of clustering of projects. He said that at the moment he is not employed and there was no way he could advice the Governor on how to do it but once he is given this chance he will be advising the person who is now in power. He will give the right direction to the employer. I want to put it very clearly that when we were engaging him he also said that it is not good to deny young upcoming contractors the jobs. They should also be part of it so that they can be upgraded to the standard which is required.

I am requesting the House that this young guy according to what we see in him he is able, young and energetic and if put with Mr. Chero who is the CEC he will help in much. Kindly may the House approve his name to make him be part of this sector. Thank you.

Hon. Speaker: Hon. Walter Okello.

Hon. Okello: Thank you, Mr. Speaker, Sir, for the opportunity. I will briefly add that if not for any other reason I stand to support the recommendation of the appointment of Mr. Ochieng on the fact that he is young. Rarely do you find

people who are of a particular constitutional age bracket having amassed this sort of experience.

I want to thank the committee as well as the appointing authority for giving an opportunity to young people especially a native of Siaya County who has gone out there and invested in professional experience to the point that they could come back and serve their county. so I recommend him and I also want to commend the committee for a job well done.

I want to congratulate Mr. Joel Ochieng for having garnered this kind of experience at the age of 38. It is an inspiration to the youth of Siaya County to work hard and put their minds to what they do so that they get these opportunities.

I have been an MCA in this County. If you check his Excellency the Governor's candidate most of the time you would think you are in a meeting of octogenarians. I believe the average age currently of the cabinet as it were I could be wrong but it is around 75 years.

(Laughter)

For this fresh blood to be injected into this system, I believe this is the intervention that was needed for things to turn around. I want to agree with Hon. Andiego that there is no better pairing between the CEC Mr. Chero who I believe is in that upper cut that I just talked about and somebody who is almost half his age. I believe this is going to be a very good combination and they are going to turn around the infrastructure sector.

Finally I want to join colleagues in the concern that we could be having very good brains coming on board but the important thing is the wedge between the

cabinet and structures to implement. Many are the times we have interacted with good CO's I was particularly impressed when I interacted with the current CO of Education but despite the wealth of knowledge that these people have a lot of the time they were bent on the ability to operate and implement the ideas.

Even as we approve the appointment of one Mr. Joel Ochieng it will also be important to pass a message to the head of the County Government that it is important to let people to implement the ideas and exercise their professional qualifications so that at the end of the day the people of Siaya will get service and value out of the very good people that we have so that when people have suggestions they will be taken on board without saying that their hands are tied as has always been the case.

Otherwise I support and I believe that this young man will offer value and inject fresh blood in that very old and tired cabinet. Thank you.

Hon. Speaker: Yes Hon. Augo.

Hon. Augo: Thank you, Mr.

Speaker, Sir, I would also like to add my voice to this Report. First of all I would like to congratulate the committee for their vetting of the nominee and as my colleague Hon. Walter has said, I am very happy to have this energetic young man who is well educated who will push Siaya somewhere.

We have been passing and vetting people in this House and our Hon. Members have been crying about the age issue and in this position I am very happy that a young man who has a lot of energy will now help the CEC of roads without even thinking about where he comes from whether the CEC is from Ugunja and the CO is from the same sub county.

Why am I supporting? The nominee has seen what is lacking in Siaya that he is able to pursue and achieve a lot and that is why he said in number 14 that the latest challenge that the nominee noticed within is lack of communication between the County Assembly and the County Executive. We don't have lack of communication. The problem is that we communicate with them but they don't respond. Last time we had even the board members with us so there is nothing like communication.

When we go to number 8 and because I know as a CO that there is nothing that he is going to do if the CEC that works under him said he is not going to attend a particular meeting.

In number 8, again the committee further observed that the nominee was committed and had the best of the county at heart since he has worked in the county as a consultant maybe he has seen so many things lacking in the county and now he is able that is why he has decided to become part and parcel of this county.

I stand to support heavily that this young man must work with our county. Thank you.

Hon. Speaker: Yes Hon. Booker.

Hon. Minami: Thank you, Mr.

Speaker, Sir, for the opportunity. I think you have seen the kind of contributions put by Hon. Members to add their voice to the debate. I think majority of us have spoken on this report and the first speaker talked of the direction of the debate. It is going towards one direction.

There is one point that I would like to put across and I think Hon. Members should understand the meaning of the word communication. When somebody says there is lack of communication and you go ahead to quote that the Assembly

communicates with the Executive but if it doesn't reply, that is lack of communication. Communication without response is no communication. Let us acknowledge that the Assembly gives reports to the Executive but they never respond the end result is no communication.

Many of the contributors that have contributed to this debate have said what I would say. I tell my colleagues to accept it and let the Mover reply so that we move forward.

(Applause)

Hon. Speaker: Hon. Odinga, what is it?

Hon. Odinga: I think what the Mover did not state very clearly is that when you say lack of communication it means there are no systems completely and a number of cases we have received even reports from different committees saying that they met CEC's and CO's and on the basis of that that is what they are using to make reports to this House so when you say lack...

Hon. Speaker: The lack or presence of communication should not fundamentally change your view on this report. The Mover will reply and clarify what they meant by lack of communication.

Hon. Oriaro: Mr. Speaker, Sir, the principle of separation of power and the one thing which should be observed here we are on record and it shall be public it is communication via the office of the County Secretary. It is like we are supporting the matter based on the suggestion of a CO who is not recognized in that realm so we should in its entirety not have our debate as a tether to that.

Hon. Speaker: I want to deal with Deputy Majority Leader and then the Hon. Majority Leader then if you allow I will call the Mover to reply.

Hon. Owii: Thank you, Mr. Speaker, Sir, I was almost making a decision to rest my case because I have seen the direction that this debate has taken. In the wisdom of this committee we have seen the best report more particularly in the situation where vetting is done. This is a decent report that is giving all the directions that we would need as a House. The truth is that I was very keen on the criteria which is supposed to be followed. They are keen on all those materials and everything else. What we have seen is that this guy appears over qualified and because of that reason and my colleagues have also talked why would I say that if you allow after the Hon. Majority Leader you give the chance to talk to me you should just call upon the Mover. Thank you.

Hon. Speaker: Yes Hon. Majority Leader.

Hon. Otieno: Thank you, Mr. Speaker, Sir, for seeing me now I had stood earlier. Still the same I wanted to make a brief contribution. We have been complaining that things are not working well in this docket because we have been lacking an expert in this eventually we have gotten one by the name Mr. Joel Ochieng. He is experienced and the time is long overdue to get one to fill this position. We have mentioned the issue of BQ's that has hampered the effectiveness of working in this department. You have seen him with a lot of experience.

You go to page 8 number 10. I believe even us politicians when you go

for campaigns and you want to be elected you must give your vision and what you would do to the people if you are elected. He says he promises to ensure timely starting of projects and proper completion of projects within Assembly particular period. Here is where we have had money going back to treasury because we cannot manage it. We have been lacking somebody like this in place.

He again promises to push for the employment of more staff in the department especially qualified field engineer to ensure proper and timely inspection of projects to ensure quality of work and help speed up payment of contractors. I remember Hon. Andiego one time bringing a Motion on why the contractors cannot be paid on time and I have seen Mr. Ochieng bringing the solution. I therefore support he be given the job Assembly the mood of the House is showing.

Lastly, as you are aware most of the people coming from Ugunja have been mercilessly sacked in this County Government.

(Applause)

Namely, Mr. Collins Owino, Mr. Okwako and Mr. Maura. It is not bad to get one from Ugunja. I rest my case.

Hon. Speaker: I call upon the Mover to reply.

Hon. Asewe: Thank you, Mr. Speaker, Sir, I would like to thank the Members for having deliberated on this matter. I would also like to say that this department has also been neglected for a long time. I can remember a nominee was brought to this House and vetted but for some reasons he was not employed. It would be in order to pass this nominee so that he can be employed so that this

department can get Assembly a CO since we are left with only 1 year I think it would be in order to accept this nominee so that whatever problems that are still pending in this department be handled.

Concerning lack of communication I think what the nominee meant was communication within this department. It is not total communication between the Assembly and the Executive but within this department because he was addressing questions within this department. I think he must have cited some of the areas that lack communication of which if we give him this opportunity I think we will be able to address those issues such that the department can move forward.

Concerning some of the documents that some of the Members were talking about though it is a requirement within the Standing Orders but committees are also an extension of this House. Whatever they have seen and confirmed that the documents are okay I think this House should be able to accept. During vetting the nominee didn't have enough time to explain everything that some of our Members are demanding he was only responding to questions that were forged by the committee members but if we give him time if he is employed, he will be able to answer some of the questions that are still pending so that this department can move forward.

Hon. Speaker: On appointment on the County Government Act section 35 says that;

Appointment of County Executive Members;

(1) The governor shall, when nominating members of the executive committee—

(a) ensure that to the fullest extent possible, the composition of the executive

committee reflects the community and cultural diversity of the county; and
(b) shall take into account the principles of affirmative action as provided for in the Constitution.

(2) The county assembly shall not approve nominations for appointment to the executive committee that do not take into account the following;

(a) not more than two thirds of either gender; in other words if names came here and there is no that gender requirement fulfilled then it will be within our jurisdiction to refuse to debate that matter.
(b) representation of the minorities, marginalized groups and communities; and
(c) community and cultural diversity within the county.

That is not enough, what is more important is what the law says when we are given names for nominations because am aware here some people will say that when the County Assembly doesn't make a determination within 14 days then it is considered to have been technically approved.

Its called the Public Appointments Parliamentary Approval Act which is a National legislation and it says That,

8 (1) The period for consideration unless otherwise provided in any other law a Committee shall consider a nomination and Table its Report in the relevant House for debate and decision within 14 days from the date on which the notification of nomination was given in accordance with section 5 which says That, notification on nomination an appointing authority shall upon nominating a person for appointment to which this Act applies notify the relevant House of Parliament accordingly. Then it proceeds and this is very important; at the conclusion of the approval here in the Committee shall prepare its Report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated and shall include in the Report such recommendations as the Committee may consider necessary.

We made a recommendation that we consider necessary and got the backing of the House that this names it needs to be understood clearly that we have not rejected this names. What we have done as an Assembly is to refer back the names to the appointing authority so that the provisions of the law in so far as fulfilling regional or as the other requirements are concerned and for that matter we have acted. It will be very wrong to assume that the County Assembly has not acted and remember for the media or any other member who might want to know should the Governor go ahead to appoint the names we want to tell you that the powers bestowed upon this House we will be able to challenge the Constitutionality of the composition of the Executive Committee.

(Applause)

That would amount to violation of the Law and the consequences are there in the very Law, so I hope he will respect the views of this House to have acted by not destroying careers of people because if we chose to say that somebody is not suitable when his qualifications shows that he is suitable then we are destroying careers. If we say for example that we denied somebody an opportunity to be appointed because of a mistake that is not of his own but an act that needed to be performed by the appointing authority then we would have been very unfair.

I never brought to your attention; I have just received a communication here that our public gallery is full with people from Ugenya all the way from Ukwala, West Ugenya and may we welcome them in our normal way. Member for Usonga is also here and any other Member.

(Applause)

Next Order!

MOTION ADJOURNMENT

Hon. Speaker: Hon. Members will you rise for adjournment, Members there being no other business, this House stands

adjourned until tomorrow 20th February
2016 being Wednesday at 9.00 a.m.

The House rose at 6.35 p.m.

WEDNESDAY, 24TH FEBRUARY, 2016

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

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

PRAYER**PAPERS**

**PETITION BY THE SIAYA CONSULTATIVE
FORUM**

Hon. Angul: Mr. Speaker, I wish to lay on the Table of the House the report of the Committee on Public Accounts and Investment Committee on the Petition presented by Siaya Consultative Forum.

Hon. Speaker: Next order!

NOTICE OF MOTION

**PETITION BY THE SIAYA CONSULTATIVE
FORUM**

Hon. Angul: Mr. Speaker, I wish to move a Notice of Motion:

THAT this House approves the report of the Committee on Public Accounts and Investment Committee on Petition by the Siaya Consultative Forum.

Hon. Speaker: I think the matter is not properly before the House and I want to give direction on this matter. Hon. Members, I think we made a commitment at the beginning of this Session that we would want to as much as possible to do things according to the laid down procedures.

If you look at the manner in which we are supposed to process petitions, I want to remind you the whole Section of Petitions. I want to share with you on

Committal of Petitions which is in Standing Order number 203 and it says;

(1) Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Sectoral Committee.

(2) Whenever a Petition is committed to a Sectoral Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the County Assembly and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty minutes.

(3) The Clerk shall, within fifteen days of the decision of the County Assembly, in writing, notify the petitioner of the decision of the County Assembly on the Petition.

In other words Hon. Members, when we do petitions, you are supposed to research in the matter and give back your report to the petitioners and it is not subjected to debate. For example, assuming you did your investigations and you brought here a report and this House rejected, will you not then communicate to the petitioners? Or will you tell the petitioners that we did investigations, came up with a report which the Assembly rejected!

So, what we are supposed to be doing with petitions of this nature is that

when they come they are laid and they are saying in exceptional circumstances, the Hon. Speaker can allow comments on that report. That is why I would want to know if, now that it has just been laid here, even those comments that you can make, you can't make them because you have not seen the petition! Therefore I think you will just lay and once you lay the report, it is you maybe whom I can allow to make a brief observation, Hon. Members can but we will restrict it to less than 20 minutes.

What will follow is that the clerks will write communication to the petitioners that will be assumed to be the position of the County Assembly. If we want to debate on matters we know how to bring them, we can bring them through Statements, we can bring them through Committee reports, then we debate and take a decision. The petition as they are in the Standing Orders is that we don't debate them.

Yes, Chairman! This is an exceptional case, will you make comments on your petition!

Hon. Angul: Thank you very much, Mr. Speaker. Public Accounts and Investment Committee report on petition by Siaya Consultative Forum was brought to this Assembly in September. The Committee had 11 Members. There are issues that were brought by the petitioners and these issues were touching on the Audit report of 2013/2014. As you know, we had already dealt with some of the matters of the audit report of 2013/2014.

We had 10 Sittings for the petition and we called the petitioners, we called the Executive about the issues that were raised in the petition. We concluded the report and the Committee had some observations and findings, that is on page 13 and 19. The Committee made recommendations

that were touching the petitioners and some of the recommendations we found were touchy issues. Recommendation No. 1 that is page 17 of 19, the Committee wanted that we bring to bear the actual beneficiaries of the County Education Bursary.

There were bursaries that were given to the students and they were not the actual beneficiaries. So the Committee said that the CECM Education to bring actual beneficiaries of those students who benefited from the bursaries of 2013/2014.

1. The Committee recommended that, to bring bear the actual beneficiaries of the County Education Bursary during the FY 2013/2014, this Committee recommends that further investigations should immediately be done on the CECM, the Chief Officer and the Director Education.

2. The Committee also recommended that, there was an issue, that the Executive within 30 days conducts a performance audit covering the last 3 years (or thereabouts), outlining their performance with respect to service delivery, challenges and impediments there to, and which report shall be tabled before this Assembly, published and publicized and consequently shared with the residents of Siaya County.

3. The Kshs. 1,450,000 paid to 29 Members of the County Assembly should be recovered within 30 days from the CECM and Chief Officer for Finance. This matter was also raised in the audit report of 2013/2014 because it was said that about 29 Hon. Members of the County Assembly were paid about Kshs. 50,000.00. This Committee saw that the 29 Hon. Members that were paid money didn't know how they were paid.

The Committee asked the Executive to give names of the

beneficiaries who benefited from the money but they did not submit the names. We said that since they did not bring the names of the beneficiaries then they should carry the burden of paying back the money. In that case, the CECM Finance, Chief Officer Finance, the Director of Finance and Head of Treasury be responsible for this so that the money can be recovered back to the Treasury.

Those were the issues that were touching on the petition of Siaya Consultative Forum but the recommendations from the Committee were around 7. I don't want to go further but I think the secretariat will communicate to the petitioners.

Hon. Speaker: Hon. Members, in my own opinion, because this is coming for the first time, I want you to look at that report and the 20 minutes that the Hon. Speaker can in exceptional circumstances allow for debate be utilized by you in the afternoon. We can slot the first 20 minutes in our afternoon Session where you give comments to improve that report. Because we have just issued, we have just tabled it now, maybe Hon. Members have not gone through it now, even to make constructive comments.

I therefore want to direct that the report be circulated to Hon. Members here and the ones that are not here so that in the afternoon Session you will get comments that will help you improve that report. You know when it goes there it is the face of the Assembly and when you are addressing it you must address it as if you are addressing the petitioner and the recommendations you put there should be those ones which you have recommended who is to do it.

When a petition reads something like say, 'should be investigated' and you

have not told them who, chances are they will say you did not give them satisfactory answers therefore they go elsewhere which could be Senate or some other place. I also hope that you will attach our audit report especially the one on the Executive so that they are informed better on how you tackled those things because they are meeting the report for the first time so it needs to be very comprehensive.

Next order!

STATEMENT

DAY FOR STATEMENTS

Hon. Speaker: I am aware there is a statement from Hon. Deputy Whip but again if you look at our Standing Orders, the day we allocate for Statements is usually Thursdays and I want to say that let us restrict ourselves to that Thursday except when a matter is so urgent we can always introduce it at any other given time and I think the House Business Committee slotted it for Thursday which is tomorrow.

Next Order!

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members, will we be upstanding for adjournment!

(Hon. Members stood on their feet)

Hon. Speaker: There being no other Business, this House adjourns until today Wednesday, 24th February, 2016 at 2.30p.m. in the Chambers.

The House rose at 10.00 a.m.

WEDNESDAY, 24TH FEBRUARY, 2016

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

[The Temporary Speaker (Hon. Muhula) in the Chair]

PRAYER**COMMUNICATION FROM THE CHAIR****PETITION ON DELAYED PAYMENT TO CONTRACTORS**

The Temporary Speaker (Hon. Muhula): Under Standing Order 202, you are aware that petitions are not debatable in this Assembly. We have to start with the response to the petition as we had said in the morning session. We have 20 minutes to look at the Petition and give recommendations that can help solve the problem of the Petitioner.

Within that context, this afternoon we continue with the deliberation of the petition but mark it that we are not supposed to be discussing it because it is not a Motion but a response that we are supposed to be giving to the petitioner. I would request the Chair of Public Accounts Committee to give direction from that point.

Hon. Oriaro: Chair, if you so wish, the Mover is not around but as a member of that...

The Temporary Speaker (Hon. Muhula): Hon. Oriaro, Order! The Chair of Public Accounts is in this House!

Hon. Oriaro: He always sits by my side.

The Temporary Speaker (Hon. Muhula): He is there! Proceede, Chair!

Hon. Angul: Thank you, Mr.

Temporary Speaker, Sir, as you have given direction, in the morning the Speaker said that you could just give some directions.

The Temporary Speaker (Hon. Muhula): Hon. Chair I just wanted you to confirm that that was the communication.

Hon. Angul: Yes, that was the communication and it was stated that we cannot debate about it but we can only give some directions.

The Temporary Speaker (Hon. Muhula): Thank you, Hon. Chair, resume your seat. Next order!

PAPER**DELAYED PAYMENT TO CONTRACTORS**

I wish to lay on the Table of this House the Report of the Committee on Budget, Appropriations and Finance and Vision 2030 on delayed payments to contractors in Central Sakwa.

(Hon. Odinga laid the Paper)

NOTICE OF MOTION**DELAYED PAYMENT TO CONTRACTORS**

The Temporary Speaker (Hon. Muhula): Yes, Chairperson for Committee on Budget, Appropriations and Finance.

Hon. Odinga: Thank you, Mr. Temporary Speaker, Sir, I wish to give a notice of Motion:

THAT, the House adopts the Report of the Committee on Budget, Appropriations and Finance and Vision 2030 on delayed payment of Contractors in Central Sakwa Ward. Thank you.

MOTION

PETITION BY SIAYA CONSULTATIVE FORUM

The Temporary Deputy Speaker (Hon. Muhula): The Chair directs that the PAC Committee talks to us about the petition and then I will give the chance to Hon. Members who will deliberate on it for 20 minutes.

Hon. Angul: Thank you, Mr. Temporary Speaker, Sir, on the Petition that was brought to the PIC and PAC Committee last year September by Siaya Consultative Forum, the committee had already written a Report. The concern of the Siaya Consultative Forum was on issues that were within the Audit Report for 2013/2014 and also issues that were outside the Auditor's Report.

The Report states that there were a number of issues brought by Siaya Consultative Forum. If you go to observation number 1, the committee observed that the procurement department then had not been having a substantive officer, this has had a negative effect of the consistency of the operations of the Finance Department and that was singled out by the Siaya Consultative forum. Unfortunately...

The Temporary Deputy Speaker (Hon. Muhula): Order, Hon. Chair! Petition is questioning and the intention of the petitioner is to give answer. If there has never been a substantive officer in that office, what did your committee get? What

is the answer that they are giving to the petitioner? That is what this House wants to hear!

Hon. Angul: Thank you, Mr. Temporary Speaker, Sir, if you go to page 15 there are findings and recommendations of the committee. If you go to number 1 about the department, unfortunately to date the trend has continued to be to an extent that during the interrogation meetings there was no substantive head of that department.

The Temporary Deputy Speaker (Hon. Muhula): What was the reason Hon. Chair? Why was there no substantive officer?

Hon. Angul: There was no officer who was employed in that department during that time.

The Temporary Deputy Speaker (Hon. Muhula): What is the Executive doing about that?

Hon. Angul: The...

The Temporary Deputy Speaker (Hon. Muhula): May I take it from that point Hon. Chair. Hon. Members, the real intention of the people of Siaya was to get the reason why things are not working well in Siaya that is why they were doing a petition. So the petition is not for this House to debate.

As per Standing Order 202, it is supposed to be an answer to the people so before we give these answers to the people we must tell them why such a thing is happening because I expected the PIC and PAC Committee to have talked to the responsible people to give us the reason why they are not working well to the expectations of the people of Siaya that prompted the petition.

Hon. Members who have gone through this petition, can we start debating

for 20 minutes and give reasons why these things are not happening.

Hon. Oriaro: Thank you, Mr. Temporary Speaker, Sir, one thing I have observed is that the inadequacy on the part of the Chair could be as a result of the weakness in the technical section of the Assembly. As we had deliberated, I am a Member of the committee, we were so much sketchy on this and all our deliberations ought to have given straight answers to the Siaya public that is why I am very happy that you have granted us the opportunity to enhance the document.

I will go to recommendations. Various timelines have been given here as regards for instance the fabrication, delivery and installation of solar lamps etc. we want openness in this. If you go to number 11, construction of perimeter wall et al, lack of statutory documents even including number 6 of recommendations we have not come up with timelines. One, as the committee will work on the document so as to give room for legal options in so far as helping Siaya public we give timelines. For instance if we say we want the statutory documents as of number 11 we give them let's say 14 days and we prescribe and recommend what shall be done to the officers upon their failure to do it.

In short that is the spirit that is where we want investigation as regards to issues pertaining to impunity, corruption et al as it is in the Report. I may not be specific, we recommend the coming of other statutory bodies, the CID, anti-corruption and KENAO if it would be Jermaine to getting the answers and we shall be home and dry because at the end of the day if the public is not satisfied they can still go to the court of law. Thank you.

The Temporary Deputy Speaker
(Hon. Muhula): Hon. Member for Ugenya East.

Hon. Ndonji: Thank you, Mr. Temporary Speaker, Sir, I also just want to get to the recommendations starting with the first recommendation. However, I am raising my concern because it says "to bring bare the beneficiaries of the county education bursary during the FY 2013/2014". I have no problem with that but my problem comes when it says that this committee recommends further investigation should be immediately done to the CECM, Chief Officer and the Director of Education.

You will come to realize that during this period under subject, the people who are currently holding these offices are not the same people who were there at that time so if it is the people that are being investigated then we would be investigating the wrong people. The person who was there at that time should be the one who should be bearing the brunt of what is going to come out of this.

On the second recommendation "the Executive within the 30 days conducts a performance audit covering the last three years or there about outlining their performance with respect to service delivery". If this is the person being audited how can this person be entrusted with auditing himself and it is the progress that we are talking about that came from this particular person. Who is going to say that they are wrong because they are not going to say they are wrong? Therefore I have a feeling that in case there is any audit that is going to be carried out it should be done by an independent body and not the people who are complacent in this issue.

Another issue that I want to raise is this issue of the timelines that are being given. It is not clear from which date we are talking about but at the same time when we talk about these timelines we should put in place what should be done in case these timelines are not adhered to.

However there is one fact that I am happy about, that is the 4th recommendation that the CECM, Chief Officer for Finance and Director for Finance be held responsible for these payments and probably if possible they get surcharged.

The Temporary Deputy Speaker
(Hon. Muhula): Hon. Ndonji, please observe time.

Hon. Ndonji: Probably I am the only one who is going to speak. I just want to say that these recommendations should also come in such a manner that when we are replying we clearly put the course of action in case everybody doesn't do what has been directed by this Assembly. Thank you.

Hon. Oriaro: Can I have another space?

The Temporary Deputy Speaker
(Hon. Muhula): No, Hon. Oriaro. Yes, Hon. Zilpah.

Hon. Awino: Thank you, Mr. Temporary Speaker, Sir, I am a little bit lost but in the petition, the petitioners have caused issues that they expected to be provided with answers or solutions to those issues that they have raised. My worry is that they have raised many issues but when I come to the other side where the answers should be, I don't see a straight forward answer. They are saying on page 17 of 19 to ensure adherence to financial regulations at the hospital the CECM and Director of Health should put in place structures that shall ensure

funding of the hospitals in good time to aid the direct expenditure.

I would have wished that by the time they were dealing with these issues of this petition they should have come up with structures that had already been put in place to tell the petitioners that this is what has been done so that what you have raised will not be open.

Then they talk of procurement of legal service they recommend that within 14 days a task force be recruited to scrutinize all the pending litigation claims for the defunct local authorities together with all the ready bills and on the other side they are mentioning a particular law firm and they want to know the circumstances and with whose authority the claims handled by this law firm were satisfied as payable and this one has not been answered in the committee recommendations.

As far as I am concerned this report by the PIC and PAC will not help solve the issues raised in this petition. I feel that this work is inadequate it needs more thought and they need to polish this Report to answer these issues that were raised. They have not been answered appropriately. Thank you.

The Temporary Deputy Speaker
(Hon. Muhula): Hon. Majority leader.

Hon. Otieno: Thank you, Mr. Temporary Speaker, Sir, allow me to quote Standing Order 56 that we seek a leave on the document before us so that it is withdrawn and then taken back to the committee to give appropriate response because as I am seeing the mood in the House seems that the Members were not prepared for it.

The Temporary Deputy Speaker
(Hon. Muhula): Thank you, Majority Leader Standing Order 56 reads that after

the question that has been proposed on any Motion or petition it shall be deemed to be the possession of the County Assembly and such motion shall not be withdrawn without the leave of the House of the County Assembly.

I give directive that the document has not been done well enough to give information to the Siaya public because at this time we cannot recommend of the PIC and PAC has been done. We cannot give timelines to the petitioners we have already given timelines to the Executive and we needed to put evidence here in terms of recommendations from the Treasury Memorandum from the Executive to the petitioner. I hereby direct that the PIC and PAC Committee sits down and writes an answer to the petitioners in the right manner. Thank you.

MOTION

DELAYED PAYMENT TO CONTRACTORS

Hon. Odinga: Thank you once again, Hon. Temporary Speaker, Sir. As I gave notice earlier, I beg to Move:

THAT this House approves the Report of the Committee on Budget, Appropriations, Finance, Planning and Vision 2030 on the delayed payments to contractors in central Sakwa ward and I call upon Hon. Aneme to second.

(Hon. Aneme seconded)

(Question proposed)

PREFACE

Mr. Speaker, Sir, on 23rd September, 2015, through a Statement request, the Hon. Joannes Andiego, MCA representing Central Sakwa Ward, requested for a

statement on the delayed payments to contractors in Central Sakwa ward. In his Statement, Hon. Andiego wanted to know the reasons why the contractors had not received their rightful progress payments and when these delayed payments will be paid.

The Hon. Member opined that there are several projects going on in Central Sakwa Ward which have strict timelines as per signed specific contract agreements and that there has arisen complaints of non/delayed payments from several contractors over time. An example is Richardson Contractors who was awarded construction of 3 ECDE classrooms at Onyinyore, Odawo and Ndeda in the said Ward, among others.

The Hon. Speaker thereafter committed the Statement Request to the Committee on Budget, Appropriations, Finance, Planning and Vision 2030 for consideration and reporting back to the County Assembly.

COMMITTEE MANDATE

Mr. Speaker, Sir, the Committee on Budget, Appropriations and Finance was established under Standing Order No. 187 and is mandated to do the following;

- 1) Investigate, inquire into and report on all matters related to coordination, control and

monitoring of the of the
county budget,

- 2) Discuss and review the estimates and make recommendations to the County Assembly;
- 3) Examine the County Fiscal Strategy Paper, as presented to the County Assembly;
- 4) Examine Bills related to the budget, including Appropriations Bills; and
- 5) Evaluate tax estimates, economic and budgetary policies and programs with direct budget outlays.

COMMITTEE MEMBERSHIP

Mr. Speaker, Sir, the Committee on Budget, Appropriations and Finance, as was constituted by this Assembly pursuant to the Siaya County Assembly Standing Order 187 (1) & (2) comprises of the following members;

Name of Member

Position

1. Hon. Jack Odinga, MCA
- Chairperson.
2. Hon. Peter Muhula, MCA
- Vice Chairperson.
3. Hon. Joseph Kawuor, MCA
- Member.
4. Hon. Jared Abayo, MCA
- Member.

5. Hon. Sylvester Madialo, MCA
- Member.
6. Hon. Margaret Oketch, MCA
- Member.
7. Hon. William Owiti Angul, MCA
- Member.
8. Hon. Nicholas Ochieng Aneme,
MCA - Member.
9. Hon. James Obiero Otare, MCA
- Member.

ACKNOWLEDGEMENT

Mr. Speaker, Sir, on behalf of this Committee, I wish to express our gratitude to the offices of Siaya County Assembly Speaker and the Siaya County Assembly Clerk for the support received as we considered this Statement.

This Committee similarly extends its gratitude to CECM, for Finance, for responding to the issues raised regarding the Statement and appearing before the Committee to make oral submissions on the same.

Mr. Speaker, Sir, it is therefore my pleasant duty and privilege, on behalf of the Budget, Appropriations and Finance Committee, to table this report and recommend it to the Assembly for adoption.

Signed
Hon. Jack Odinga, Chairman,
Budget, Appropriations and Finance
Committee,

County Assembly of Siaya.

Date

INTRODUCTION

Mr. Speaker, Sir, during the financial year 2014/2015, this County Assembly approved Kshs. 3 million each for the construction of 3 ECDE blocks – Ndeda, Onyinyore and Odawo – in Central Sakwa Ward.

Upon receiving the Statement Request therefore, this Committee set to address the following issues as requested, directly or indirectly;

- i. The reasons as to why M/s Richardson Contractors who constructed Ndeda, Onyinyore and Odawo ECDE blocks in Central Sakwa have not got their rightful progress payments.
- ii. When the delayed payments due to the M/s Richardson Contractors would be made.

COMMITTEE MEETINGS

Mr. Speaker, Sir, in reviewing Hon. Andiego's Statement, the Committee held two (2) sittings during which the Executive team led by the CECM, for Finance appeared before the Committee and made both oral and written submissions.

SUBMISSIONS BY THE EXECUTIVE'S FINANCE DEPARTMENT

HON. CLEOPHAS OMBOGO – C.E.C.

MEMBER FOR FINANCE, PLANNING AND
ECONOMIC DEVELOPMENT

Hon. Cleophas Ombogo, together with the Executive Finance team, while before the Committee on 16th February, 2016 stated to the Committee that M/s Richardson Contractors was among the contractors not paid as at 30th June 2015 due to lack of exchequer release. That Kshs. 1.2 billion for Development Vote remained outstanding in terms of Exchequer release as at 30/6/2015. He further stated that there was late release of the first funding of Kshs. 247 million in the financial year 2015/2016 which came at the end of August. This means, according to the CEC, that it was not possible to make any payments to contractors for a period of two months (July and August 2015).

The CECM similarly reported that M/s Richardson Contractors was among the contractors whose projects were not rolled over at the end of the financial year 2014/2015 hence even after the funds were received in August 2015; it could not be paid until such projects were brought on board through a Supplementary Budget. Given the delays beyond the control of the Executive, the Supplementary Budget was

only passed in December, 2015, six months into the financial year. This also led to delays in the payment to the Contractors, among them, the M/s Richardson Contractors.

The CECM stated that the M/s Richardson Contracted projects (Ndeda, Onyinyore and Odawo ECDE blocks) were therefore rolled over in the Supplementary budget passed on December 17th, 2015 and that the contractor was subsequently been paid on 18th February 2016.

DOCUMENTS TABLED

1. A copy of the Statement Request by Hon Joannes Andiego on delayed payments for contractors in Central Sakwa Ward.
2. A letter dated 13th October 2015 and referenced '**statement request on delayed payments to contractors in Central Sakwa Ward-SYACUNTY/FPV 2030 5/1 VOL 1 (100)**'.
3. A letter dated 18th February 2016 and referenced '**statement request on delayed payments to contractors in Central Sakwa Ward among others – SYACUNTY/FPV 2030 VOL III (11)**'.

COMMITTEE OBSERVATIONS AND FINDINGS

1. That the issue of delayed payments is a problem that affects almost all

the development projects implemented at the ward level.

2. That as a result of the collapse of the system towards the end of the financial year 2014/2015 as well as the fact that some projects were not done to completion as was anticipated by the County Executive, projects worth Kshs. 636,592,606 budgeted for in the FY 2014/2015 were not rolled over to the FY 2015/2016 budget. Unfortunately, Ndeda, Onyinyore and Odawo ECDE blocks were among these due to the fact they were not done to completion as was anticipated by the County Executive.
3. That Ndeda, Onyinyore and Odawo ECDE blocks contracted to M/s Richardson Contractors were only brought into the 2015/2016 financial year budget on 17th December 2015 when this County Assembly approved the Supplementary Budget.
4. That M/s Richardson Contractors were then paid their due payment of Kshs. 5,402,639.90 on 18th February 2016.

COMMITTEE RECOMMENDATION

1. To be able to solve the problems of delayed/non payments towards projects already completed or in

progress within the County and to closely follow up on the implementation of the projects, some of which for the financial year 2013/2014, the County Executive should within 21 days submit to this County Assembly the detailed implementation status report of the County projects from 2013/2014 to date.

This report should clearly indicate the project name, the location of the project, the budgetary allocation for the project, the contracted amount for the project, the work done so far, the amount paid so far towards the project and the balance to date.

As I said earlier, attached here are also statements from Hon. Andiego, corresponds and letters from the CEO and copies on minutes, thank you.

The Temporary Speaker (Hon. Muhula): Hon. Oriaro!

Hon. Oriaro: Thank you, chair, I agree almost entirely with the Report as brought before us here, but number one, the concerns of Central Sakwa Ward public Assembly as pursued by their able Member in my judgment is the global picture as it is as concerns the 30 Wards or the County statutes of the project. The one thing which is very clear is that, communication from the CECM to me

would not become tenable. This is 2013/2014/2015 issue as raised here and in that same year I was surprised and we were all surprised and even my Ward public was surprised that there were 3 ECDEs, two done by one contractor and one done by another contractor.

The 2 were done by a contractor called the Nelly construction. Interestingly the other one came much early that is the Uwiko ECDEs block ground breaking happened almost two months ahead of the ones by the Nelly Kamlaha Hera and Duwa ECDE block. It took only two months for the Nelly contractors to do the ECDs to the satisfaction of the Ward public and they were immediately in use but the Nelly is yet to be paid for that financial year. But interestingly that one of Uwiko had already been paid some amount of money ahead of even the inauguration.

So when the CECM on finance talks about system failures et al which is a white lie, we also know and have valid information that in 2013/2014 certain contractors received money before even awards had taken place and some of those work done by those contractors remain questionable. So the question is all about what systems were they using to award contractors even when incomplete, without procurement process not being followed while others who took the pain of going through legal channels and despite

finishing to the satisfaction of the public they have not been paid.

We also know that during that period 2013/2014 projects were done even outside the budget and we talk about program based budgeting while most of the projects done outside the budget had been paid. So this are some of the things we should be questioning and as I conclude.

The one recommendation brought before us by the Committee on Budget to me is borrowed from a key recommendation by the Committee of Implementation by chair from one of their recommendations and it had given the executive to come up with this within 14 days and indeed as a Committee we are playing oversight over that.

So my worry is that if we adopt the Report the way it is and we give those 21 days yet the earlier Report as adopted by this House already in the implementation state will naturally annul our recommendation which had expressive powers and even valid recommendation and valid sensors. We said that beyond those 14 days 1,2,3 shall.....Thank you.

The Temporary Speaker (Hon. Muhula): Order! Order! Hon. Oriaro, are you insinuating that this Report is not valid?

Hon. Oriaro: Mr Chair, the recommendations the way they are in the

recommendation of implementation as remotely tabled here that various departments of the executive which fall in the area of Education within 14 days they come up with status report. All that which is talked about here each sector within 14 days, failure to which 1, 2, 3 will be done. So the problem ... Thank you.

The Temporary Speaker (Hon. Muhula): Order! Order! Order! Hon. Oriaro. The Hon. Chair can you resume the seat! All the Committee Reports are valid and if I have to get the substance of this Report it was directing the CECM in line with payment. The Committee on Implementation was directing education in line with whatever they have done in terms of ECDEs. These are two different things Hon. Oriaro, can you keep to the substance of this Report of the day?

Hon. Oriaro: Mr Chair, in a nut shell, in near unity scale, I support.

(Laughter and loud consultations)

The Temporary Speaker (Hon. Muhula): Hon. Member for Yimbo West!

Hon. Ochieng': Thank you, Mr. Temporary Speaker, Sir. First I want to say that our contractors have really suffered in the hands of executive and more so the minister in charge of finance. As you can see this Report there are some statement which have been given by the CEC finance

which we fail to understand who is really sleeping on their jobs and whose problems are these by not rolling over the projects to the next financial year.

I think that there some people who are sleeping on their jobs in the executive and that's why we shouldn't give the executive or more so the officers of finance this chance for frustrating our contractors. I want to say that this delay of payment where by a contractor dose his work in the FY 2013/2014 but he is being paid in 2015/2016, which is a disservice to our contractors because some of them have lost their properties to the banks in the name of loan defaulters.

I also want to say that as the statement that was requested by Hon. Andiego I think has been answered. My main problem is; will the executive be waiting for Members of this County Assembly to give their statement is when contractors be paid. The statement was brought to this House on 23rd September, 2105. Right now is when the contractors are being paid after this statement has been brought to this House and more queries made by us.

I think these are problems that cut across the County and not only in Central Sakwa. Otherwise I want to support the Report by sticking to its recommendation of the County Finance department that the County Executive should within 21 days

submit to this County Assembly the detailed implementation status report of the County projects from 2013/2014 to date.

This report should clearly indicate the project name, the location of the project, the budgetary allocation for the project, the contracted amount for the project, the work done so far, the amount paid so far towards the project and the balance to date and I think this will give us a dime light of where we are coming from and where we are going. Therefore I support and call for immediate implementation as soon as possible.

The Temporary Speaker (Hon. Muhula): Hon. Ndonji!

Hon. Ndonji: Thank you, Mr. Temporary Speaker, Sir. First I want to commend Hon. Andiego for having raised this issue and it is an issue cutting across the County as it has been said. My concern is that the executive always have excuses for whatever they have not done right.

The response by the CECM finance could be his response in defense but we can't say that it is the gospel truth; I can term whatever has been happening in the docket of finance as display of mediocrity, incompetency and ineptitude. This is what brings such results and you realize that we are not talking about payment of only this year everybody is

talking of payments that started in 2013/2014.

Some of the projects for 2013/2014 have not been paid to date and you will realize that in his response he only talked about only two months in which they were not in a position to pay because funds had not been realized while he only talked about July and August, 2015 which means that during the other months there must have been a problem not only from the National treasury but from our treasury here.

When talking of rolling over projects to other years we should come to the root cause of why projects are being rolled over and in case a project has been rolled over but it has not been captured in the budget, who is to bear the responsibility? Is it not the executive? It is the executive!

Lastly, I want to say that the recommendation even though it was only but it sort of summed up everything, but I wanted also to add that the executive be given 21 days to set up a workable system of paying contractors such that contractors get their payment in such a manner that when somebody is not there it doesn't mean that work has to stop there.

If we have a system in which contractors are being paid we will not even have contractors lining up at the finance offices. So I would like that to be added in

this recommendation so that the executive can be compelled to come up with a workable system which is going to ensure that payment are made in stages after probably looking into what the contractor has done and let the contractor be paid if the work done is satisfactory.

The Temporary Speaker (Hon. Muhula): Hon. Rosemary!

Hon. Ogutu: Thank you, Mr. Temporary Speaker, Sir, I also want to add my voice on this Report from the statement from Hon. Andiego from Central Sakwa and I also thank the Committee for a job well done. It has been a tendency in this County such that even some contractors are saying that it is better to work in Kisumu County than Siaya where by payments are being done in consideration of who you are or who do you know!

While going round in the same Ward we found a dilapidated ECDE Centre in Central Sakwa though I can't remember the name of the ECDE we recommended that the children should not be in that class because it was a finished project yet the building had a lot of cracks on its wall. The ECDE project had been paid and when Hon. Andiego called the contractor who did the job and whom I will not mention his name or company, the contractor responded very rudely that he had completed his job as expected.

So you can see the path that Siaya as a County is heading to, whereby you are mandated to represent your people and somebody given the job to do for your people does a shoddy job and still has the audacity to speak to you rudely. If we don't put up a system in this county for the payment of contractors they will be enlightened to a level in which they will join hands and take the county to court in which am telling you we will spend a huge amount of money.

These contractors do take loans from the banks to do these projects but still end up being frustrated in our county offices to be paid. I support that a system should be there in place for the payment of contractors and we should also know the projects of 2013/2014 which have been done as well as the ones that have been paid so that we are in the know of what is happening.

Our days are numbered here as some of us will be going back to the electorate. What will we point out to the electorate? It will be very hard for us given that the contractors are also the same electorate yet when they work for the County they don't get paid. How will we talk to them in 2017? Let's work out a modality as a County or as an Assembly on how to put up a system to pay the contractors and I rest my case.

The Temporary Speaker

(Hon. Muhula): Hon. Walter!

Hon. Okello: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to add a few comments. I want to start by congratulating the Committee on Budget because in our observation if there is one single most important recommendation that has ever come to this House, it is this recommendation that is before us today. I thank this Committee for being so clear, so precise and so definite on what this County needs.

Allow me to read this recommendation once more for the record. And it says; *To be able to solve the problems of delayed/non payments towards projects already completed or in progress within the County and to closely follow up on the implementation of the projects, some of which for the financial year 2013/2014, the County Executive should within 21 days submit to this County Assembly the detailed implementation status report of the County projects from 2013/2014 to date.* This report should clearly indicate the project name, the location of the project, the budgetary allocation for the project, the contracted amount for

the project, the work done so far, the amount paid so far towards the project and the balance to date.

Mr. Temporary Speaker, Sir, this single recommendation is going to solve all problems that we have in this County. It is going to expose who has been paid what and what work they have done; whose money is still pending and who has eaten money for which project. I want to urge the Chair of Implementation Committee, Hon. Oriaro that even if it means that this recommendation annuls our earlier recommendation adopted by the House, let it be; and kindly let us take up this matter.

We can decide to strictly follow up on this and put the Executive to task that they have to within twenty one days present this list. We shall make the list public, take it to the Ward levels and let the public confirm and see the amount of money that has come to Siaya since 2013 Financial Year. With that, we can then do a cost benefit analysis for the last three years.

So, I want to urge my colleagues to adopt this Report without any hesitation whatsoever and commit ourselves that we are going to support the course of ensuring its implementation. The only thing the Committee should spell out is the repercussions for failure to adhere to these very clear instructions. In his response, I would like the Committee Chairperson to brief us on this. There is a Committee going round doing public participation and you could see the anger which they were met with last week.

The public out there is generally unhappy with the County Government of Siaya. They ask why we do go to them and pick their views and project proposals yet there is no implementation! Mr. Speaker, Sir, by this Report being adopted by this House, as an Assembly we will be salvaging ourselves, especially the elected Members, so that the people can see that you have done your part and presented their cases but somebody up there is sleeping on them.

Mr. Temporary Speaker, Sir, my attention is drawn to this letter by Dan Okoth who is the Chief Officer, Planning. The letter is dated 13th October, 2015 and I think it's a response to a Statement request by Hon. Andiego, MCA Central Sakwa Ward. The last bullet of the letter says the Executive has put in place stringent operational procedures to ensure efficiency and effectiveness in delivering financial services to the County's stakeholders including contractors. The procedure introduced is aimed at achieving the desired image for the County and prompt processing of payments once funds will become available.

I would really wish to hear more on this from this Committee and I hope the Chairman will have an opportunity to talk about this and tell us if they had an opportunity to interrogate what this CO called stringent measures and how effective and useful they are. We have heard so many promises of good work to be done, strategic plans put in place, but things remain the same. Siaya is lagging behind.

Siaya doesn't have street lights. Siaya does not have proper healthcare facilities. Siaya's agriculture sector is in a mess; our tractors have stalled. If you look at page 18 of *The Standard*, a few of us are

quoted lamenting about the slow implementation pace of projects. So, I would wish to know the effect of the stringent measures that have been put in place. Otherwise we will talk and run round but there are no repercussions on people who are being paid using taxpayers' money and are not accountable. These people should be sent parking and new people should come in even before 2017. I support

The Temporary Speaker (Hon. Muhulah): Yes, Hon. Member for Gem East!

Hon. Minami: Thank you, Mr. Temporary Speaker. I represent East Gem Ward in Siaya County; not Gem East.

The Temporary Speaker (Hon. Muhulah): Hon. Member, can you continue!

Hon. Minami: Thank you, Mr. Temporary Speaker, I must put the records straight because we have another Ward called Gem East in Homabay.

The Temporary Speaker (Hon. Muhulah): Alright!

Hon. Minami: Thank you, Mr. Temporary Speaker, for the opportunity you have given me to also add my voice to this Report by the Budget Committee. I want to start by appreciating the Committee for a job well done and as my colleagues have said, its implementation is what is very key and this Assembly has to stamp its feet to make sure that whatever it passes is implemented by the Executive. Unless we do that, then whatever we are doing here makes no sense.

It is true that majority of contractors in this County, not only in Central Sakwa have not been paid for the works they have done since the inception of the County Government. There are contractors still begging for payment of

works they did in 2013/2014 Financial Year. What worries is the fact that we recently discovered that there are contractors who did some works that were not in the budget and they have been paid. We don't know how that was done yet there are contractors who did works that were budgeted for but they have never been paid. I want to concur with Hon. Ndonji, though he has left, that there is a lot of ineptitude and mediocrity at the Executive arm of the County Government of Siaya.

If a project is not rolled over to the next Financial Year then the question should be, why was it not paid for and who is supposed to roll over a project, is it a contractor or the person in charge at the County level? I was reading *The Standard* where some of my colleagues claim that the Executive is letting the County down in terms of implementation of projects.

At the end of that story, the Governor is accusing MCAs of being the owners of those companies. I am calling upon the Governor to come out very clearly and table the names of companies owned by MCAs. He should not place blanket condemnation on all MCAs. He should be very specific!

The Temporary Speaker (Hon. Muhulah): Hon. Member for East Gem, you can bring that as a Statement and seek the response of the Executive on that.

Hon. Minami: Thank you, Mr. Temporary Speaker, for your guidance, but it was just part of what we were discussing. When allocating monies for projects, you find this Assembly setting aside something like Kshs. 5 million for the construction of a health center but when the Bills of Quantities are done, you find that the contracted amount is about Kshs. 4.6 million. What happens to the

remaining amount of Kshs. 400,000? It is important for the Committee to find out where this money goes to.

As an Assembly, time has come for us to be serious with the recommendations we make in our Reports to the Executive. It is this Executive that has failed to implement a majority of reports from this Assembly. In our last Session, this House adopted a Report by the Public Investments and Accounts Committee for some measures to be taken against some members of the Executive.

Up to date, nothing has taken place. Those people are still walking all over the place and earning taxpayers money. I wonder whether these people will act on the 21 days given in this Report. As an Assembly, we should ask ourselves what we can do if the Executive cannot obey the decisions we make.

Mr. Temporary Speaker, Sir, with those many remarks, I support this Report so that we see how the Executive can help us in helping the people of Siaya realise the benefits of devolution. Thank you!

Hon. Augo: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. First, I would like to appreciate the Budget and Appropriations Committee for their work and the recommendations contained in this Report.

As my colleagues have said, the cry of contractors in Siaya County is quite loud. It forced me to lie that I am one of the signatories of a contractor who had a bank loan and my car was going to be towed for him to be paid a little money. Contractors are working and they are not being paid. This is a cry all over the County and if you walk around you'll be told that it is better you find work in Kakamega or even Bungoma.

Time has come for this Assembly to take stern action against the laziness at the Finance Department. The essence of devolution was for resources to be closer to the people, but if they cannot benefit from it, then it serves no purpose. Devolution was meant to strengthen our people. Some time back, the youth had a project of making dustbins and they would walk all over Siaya and the only thing they would be told is that there is no money.

Mr. Temporary Speaker, Sir, it is now upon the Implementation Committee to see to it that this Report is implemented within the next twenty one days as recommended. Thank you.

Hon. Osuri: Thank you, so much, Mr. Temporary Speaker, Sir. Like my colleagues, I would like to support this Report and appreciate the Budget Committee for work well done. It is true as they have captured in their findings that the delay in payment is common in all the thirty Wards. But I am surprised by the response of the CECM for Finance who gives an excuse that the delay was beyond the executive committee.

I wonder who they expect to take charge of this. Projects are normally aligned as per the budget and the excuse that they seem to be giving is that the Assembly delayed in passing the Supplementary Budget. Does payment of projects require Supplementary Budget to be passed? This is an excuse that we should not let pass.

Mr. Temporary Speaker, Sir, last year, I brought a similar Statement to this House and the Implementation Committee headed by Hon. Oriaro was given the task of visiting all projects in South East Alego Ward and the final Report was adopted in this House, but whereas the Budget Committee has recommended that

Executive deals with some things within 21 days, we should also check on other similar Reports adopted by this House. There is a problem in the implementation of the Reports adopted by this House and we should strictly ensure that House Reports are implemented as recommended.

Thank you, Mr. Temporary Speaker, Sir. I support.

The Temporary Speaker (Hon. Muhulah): Hon. Members, I will only give chance to Hon. Zilpa then call upon the Mover to reply.

Hon. Awino: Thank you, Mr. Temporary Speaker, Sir. I will be brief because what I would have said has already been stated by my colleagues who have spoken before me. But something worries me; whenever the treasury releases the amount of monies that counties have spent and not spent, this county stands out because we have a lot of money that we have not spent.

On the other side, it is a known fact that contractors have not been paid and we are sorry about it. What is it that Bomet County does right to spend all their development money and Siaya has all the money lying at the Central Bank doing nothing. Our absorption capacity is very low and this means that our people working in the Finance Department are not efficient. They should not be there because they have failed us. They cannot do what is right and there is no reason why they should be maintained.

(Applause)

If they had the capacity, they would be doing things in order and follow the right procedures expected of them by the Controller of Budget, apply for that money and get it on time. I thank the

Committee for this Report and it is our hope that within 21 days we shall see a difference. Thank you.

The Temporary Speaker (Hon. Muhulah): Hon. Chair for Finance, I would like you to reply and please talk of the issues of projects implementation and the balances as from 2013/2014, 2014/2015, 2015/2016. The Hon. Okello also talked of the stringent measures put in place by the Finance Department to ensure that these things do recur in the future. Please take the Floor.

Hon. Odinga: Thank you, Mr. Temporary Speaker, Sir. First and foremost, I want to thank my colleagues for supporting this Document and also thank Hon. Andiego for coming up with this Statement request because it has been an eye opener in so far as implementation of projects across all the thirty Wards is concerned. It is evident that it is a concern to all Members.

The reason why as a Committee we recommended that within twenty one days the Executive should bring to this House a comprehensive status report right from the Financial Year 2013/2014 is because the Statement by Hon. Andiego reflects the situation in all the thirty Wards. This report will enable us analyze and know the projects in 2013/2014, 2014/2015, 2015/2016 Financial Years, the levels at which they have been done and the amounts paid.

In our recommendation, we also stated categorically what we want to see in their report like the allocations, whatever has been paid and what is outstanding so that we can deal with this issue of projects once and for all.

It was a concern of one Hon. Member that the same recommendation was done through the Implementation

Committee and at that time they gave the Executive fourteen days; Mr. Temporary Speaker, Sir, I wonder if fourteen days have not elapsed. They would have brought back that report. They are also asking what could be the repercussions if within the twenty one days there is no report from the Executive. We are seeking permission from this Assembly that in terms of oversight, we force the Executive through the CECM for Finance to bring to this House a report on the status of projects. So, if this report is adopted, it is when this Committee will be given time to meet the Executive and tell them that within twenty one days they should bring a detailed report on the status of projects.

The Hon. Member for East Alego asked whether somebody should wait for the supplementary budget to be paid. Once you do a supplementary budget, it supersedes the original budget and in terms of implementation you cannot run two budgets. If at all the supplementary budget did not capture all the projects rolled over, then definitely it could not be paid because it forms part of the supplementary budget.

Mr. Temporary Speaker, Sir, there was a question by Hon. Okello who read the letter by Dan Okoth, Chief Officer, Finance and he wanted to know the stringent measures operational procedures put in place. As you can see, this was a response letter to the Committee by the Finance Department and so, as a Committee, if given chance through the passage of this Report, we will sit down and question them.

When we will be tabling the status report of the projects, we will be able to present to this House the proposals of the stringent measures put in place to ensure projects are paid without subjecting a

contractor to walk up and down from office to office looking for his pay.

Mr. Temporary Speaker, Sir. I want to thank my colleagues very much because the mood of the House is a Yes! Yes! Yes!

The Temporary Speaker (Hon. Muhulah): Hon. Chair for Finance, that is not your responsibility; it is my responsibility! What is wrong with you!

(Laughter)

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Hon. Muhulah): Hon. Members, there being no other business, this House stands adjourned until tomorrow, Thursday, 25th February, 2016 at 2.30 p.m.

The House rose at 3.55 p.m.

THURSDAY, 25TH FEBRUARY, 2016

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

[Temporary Speaker (Hon. Abayo) in the Chair]

PRAYER

Temporary Speaker (Hon. Abayo): Hon. Members, we are waiting for the Hansard system to be fixed briefly. Vincent, is it going to work?

**COMMUNICATION FROM THE
CHAIR**

HANSARD SYSTEM FAILURE

Temporary Speaker (Hon. Abayo): Hon. Members I wish to notify the House that the Hansard system has got a problem and I think it's an electric fault therefore we are not going to use it. The technicians have tried to assess it and they have said it might not function, so we will continue with the portable microphones from where we are without using the stationed ones in front of our desks and I think we will still be audible enough.

PAPERS

1. REPORT ON COUNTY PUBLIC SERVICE BOARD ON SUITABILITY INTERVIEW
2. REPORT ON COUNTY PUBLIC SERVICE BOARD ON THE HUMAN RESOURCE APPOINTMENT

Temporary Speaker (Hon. Abayo): Yes! Hon. Owii.

Hon. Owii: Thank you very much Mr. Temporary Speaker Sir, I want to lay some two documents before this honourable House, therefore No 1. I want to lay on the Table of this House the

Report on Siaya County Public Service Board on suitability interview done on the defunct local authority staff and if you allow Mr. Temporary Speaker, Sir, I want to lay in the House the Report on Siaya County Public Service Board on the Siaya County Public Human resource appointment, thank you.

STATEMENTS**INTERDICTED FINANCE STAFF**

Temporary Speaker (Hon. Abayo): Yes, Hon. Walter Okello.

Hon. Okello: Thank you Mr. Temporary Speaker Sir, allow me to seek this statement on behalf of the Hon. Booker Otieno. In the course of last year the Siaya County Executive interdicted some staff of the Finance department on allegation of attempting to hack into the County Integrated Finance Management Systems (IFMIS). Concerned that the alleged hacking was a threat to the County financial nerve purported to be investigated and concluded in earnest, further concerned the natural law of justice also requires that suspended employees be given a just and fair ...

Temporary Speaker (Hon. Abayo): Order! Yes! What is it?

Hon. Andiego: Mr. Temporary Speaker Sir, we don't have the statement which is being read by the Hon. Member.

Temporary Speaker (Hon. Abayo): That's noted, you can proceed.

Hon. Okello: Thank you, Mr. Temporary Speaker Sir, I think it is due to the failure of the Hansard system that has

caused the confusion and I believe the Members now have the statement but I will read again; Statement request on the fate of interdicted IFMIS staff. Where as in the cause of last year the Siaya County Executive interdicted some staff of the Finance department for allegedly attempting to hack into the County Integrated Finance Management Systems (IFMIS).

Concerned that the alleged hacking was a threat to the County financial nerve purported to be investigated and concluded in earnest.

Further concerned the natural law of justice also requires that suspended employees be given a just process to argue out there innocence. I would like to know the fate of these interdicted employees and the extent reached by the institution to derive action, thank you.

Temporary Speaker (Hon. Abayo): I will notify that statement to the Committee on Governance and Administration. Hon. Awuor, what time do we expect this Report back to the House or what time frame do you foresee?

Hon. Awuor: I want to expect and believe that given two weeks which is 14 working days from now it will be ready.

Temporary Speaker (Hon. Abayo): What does that translate to? That will be 10th of March.
Yes, Hon. Owii!

Hon. Owii: Thank you, Mr. Temporary Speaker, Sir; I want to issue a statement on tentative business of the Assembly for next week begging from 1st March, 2016 next Tuesday. If you allow this is tentative business starting from Tuesday, March, 2016 to Thursday, 3rd March, 2016.

It is notified that the House business Committee in their last meeting

approved the following tentative business to appear in the Order paper for Tuesday, 1st March, Wednesday, 2nd March and Thursday, 3rd March, 2016 and the business will be on the Siaya County Quality and learning Bill County Assembly 2015, Siaya County Child care Bill County Assembly 2015 and last one Siaya County Persons living with disability Bill County Assembly 2015. The chairperson Committee on Education, Youth affaires, Gender and Social services should take lead and that will be second reading.

On Wednesday, 2nd March, 2015 in the morning we will have the Siaya County Public Nuisance Bill of the County Assembly 2015 and the second one will be the Siaya County Carriage of Food Bill County Assembly Bill 2015 and this comes from the chairperson Committee on Health and it will be second reading. On Wednesday afternoon sitting we will have the Siaya County Public Works Bill 2015 and the Siaya County Disaster Management Bill 2015 and this involves the chairperson Committee on Road, Transport and Infrastructure and Chairperson Committee on Public Administration and Governance and it will actually go for second reading.

Last will be on Thursday, 3rd March, 2016, we will have a Report on Committee of Water, Environment and Natural Resources on the Siaya County Community Managed Water projects and the lead person will be the chairperson Committee of Water, Environment and Natural Resources and will go for the second reading. On the same day if you allow please we will come up with the constitution of Committees and will be read on the same day including the

Committee on Powers and Privileges, thank you.

Temporary Speaker (Hon. Abayo): Yes, Hon. Owii!

MOTION ADJOURNMENT

Hon. Owii: Thank you, Mr. Temporary Speaker Sir, having exhausted all the business on the Order paper...

Hon. Muhula: Point of information, Mr. Temporary Speaker, Sir!

Temporary Speaker (Hon. Abayo): Yes, Hon. Muhula!

Hon. Muhula: Just slightly before the Hon. Majority Moves a Motion of adjournment I want to seek lead of the House that this House discusses a very serious issue in Siaya County and if allowed that this House discusses the issue of Cholera outbreak in Siaya County and if allowed I would like to call Hon. Ndonji to second.

(Hon. Ndonji seconded)

Temporary Speaker (Hon. Abayo): Hon. Members, Hon. Muhula has raised an issue invoking the Standing Order No. 30 That seeking the leave of this House to discuss a matter of County importance that is the cholera outbreak in Siaya and it has been seconded. The House needs to take a decision whether you agree that we handle it at this time and I will put the question on that basis, that the leave of the House is sought and the House can discuss the issue of cholera outbreak in Siaya.

(Question put and agreed to)

Temporary Speaker: In that regard, I wish to invite Hon. Muhulah to move.

Hon. Muhulah: Thank you, Mr. Temporary Speaker, and the Hon. House. About two days ago, there was a communication by radio Mayienga that the cholera outbreak is in the Sub County of Alego Usonga and eventually it crossed into Ugunja. This has led to a lot of deaths in both Sub Counties. As we know at now, cholera is one of the very viral diseases that can wipe out population in the very shortest time possible.

We know how cholera germinates in the body and eventually affects the lives of the people. The measure that the County Government has done to this effect at this moment is wanting. Diseases don't promise that is why there are hospitals and that is why there are departments that deal in health called for preparedness before these outbreaks arise.

The very ironical thing is that as much as the outbreak has already been noticed, still the County Government wants to relay on other agencies other than their own capacity. The worst is, that is the outbreak in both Sub Counties and the outbreak on these victims cannot be even assisted and helped instead we have only increased deaths when we have a big hospital called Referral Hospital. We also have a Sub County hospital called Ambira but the very serious thing is that there are no medications.

When I was listening to the Director of Health, Dr. Omondi Owino who is also a friend reacting to the mitigations that are put on the radio, to me that was very less preparedness that a County Government which actually Constitutionally has to protect the lives of its people or her people could have been in that position. Worse of that one, is that there are no any courses that the County Government is doing to prevent the

increase of this very serious and disastrous disease. There are still people venturing foods, there are still people who are hawking foods, there are still people who are still going ahead eating in funerals as at to date. We want this House to discuss and deliberate on this Motion, to come with the way forward and very fast enough that the Government has to move to help the victims or help those people who have not been infected or affected by this issue of cholera.

I beg you Hon. Members of this House, let's take this Motion as a serious thing in order to save the situation, lest we get the cholera spreading to the other four Sub Counties because people are traveling and they are doing business. If we cannot stop this one very fast then we are going to have the very danger as we continue to lose our people. I thank you for that.

Temporary Speaker: Hon. Awuor! And I want to state that in the same Standing Order, it is only the mover who will be able to talk for 10 minutes, the others will talk for 5 minutes and below.

Hon. Awuor: Thank you, Mr. Temporary Speaker. First and foremost I want to thank the Hon. Peter Muhulah for moving this Motion. It is unfortunate after independence that we still have this disease called cholera in Siaya. The function of health is devolved in the Counties and this Assembly gives the Executive a lot of money. This is not the first time that we are hearing of outbreak of cholera, I think this is my third time in Siaya after devolution we are getting information that the same disease is consuming three constituencies. In the morning I heard it was part of Ugunja, Ugenya has also been affected, and maybe tomorrow it will be Bondo, Rarienda or Gem.

This House this week on Tuesday did reject the appointment of the CEC for health. That was a serious mourning to the Executive, it was not because the House did not like the nominee from the Governor on this job but the way things are done in Siaya is different. Siaya needs to be very fast and the County Executive needs to be concerned on areas such as this.

I want to urge this House to come up because we as Hon. Members of this House are going to be charged very unfairly if we are not very firm. We represent people and if they die I think very soon we are not going to have people to represent. I want to really request the House, that we need to come up and say that the Executive must work, we give them over 1 billion which is over 35% of our budget. We need that money to be used properly to stop our people from dying. Let us stop cholera before it spreads in other Sub Counties. I rest my case.

Temporary Speaker: Yes, Hon. Willis!

Hon. Ochieng: Thank you, Mr. Temporary Speaker, for having given me this chance. First I would like to thank the mover of this Motion for having thought it wise to save the lives of our people who are suffering of cholera.

Hon. Oriaro: Point of order Mr. Temporary Speaker!

Temporary Speaker: Yes, Hon. Oriaro!

Hon. Oriaro: The Hon. Member who is speaking is not dressed appropriately!

Temporary Speaker: Hon. Willis, move out of the Chamber and dress appropriately.

(Hon. Willis Ochieng leaves the Chamber)

(Laughter)

Temporary Speaker: Yes, Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Temporary Speaker. As a voice representing the people of Central Alego Ward, I want to remark that the much of civilization along the Yala where having a life was by chance to a modern world which is more scientific and indeed technological going by the plan nature of things.

With science and technology we can choose to be alive or dead if you like it. We do appreciate the works of agencies; international agencies that have in the past come to the aid of establishment by ensuring that the lives of our people are taken care by way of ensuring that along water bodies or water sources are owned by the Government, they are dispensers, chlorine dispensers. If anybody goes for water it is already purified.

What is unfortunate is that the Government or be it by the people, by the resources of the people to make life meaningful to the very people, they gave as if that which is in their hands is away from Article One of the Constitution of Kenya 2010.

They choose to concur when the hands of the donors are tied because donors have programs. That is why the situation the way it is, if we do not look forth shall remain. They talked of River Nzoia, my Ward is affected! The dispensers there at Urembo, going all the way to Malele for a long time have been dry. We have got public health officers! But what worries me is the other side; the Executive.

We are foreseeing all this, which is why in the budgetary allocation for Central Alego, the public stood firm and gave an allocation through this House where the Community Health Workers (Volunteers) shall have their work enhanced by ensuring that basic drugs; essential chemicals like chlorine are in the content of their kit.

Interestingly, this is where the Governor comes from! Because if we lose somebody at Wengo, isn't it the concern of the Governor? We are with him in one Ward! They are the implementers! Now the financial year is coming to an end without even thinking of providing the 94 community health workers to provide them with those things.

It is difficult? So, I am warning the Governor, that he has got no business in providing leadership even where the area ideas have been given to him, he does not understand them! I want to tell the Governor that he has got no business in leading the County to an extent of coming from my Ward and the money is there, only sanctioning issues of procurement, it is so dangerous.

Temporary Speaker: Yes, Hon. Walter Okello!

Hon. Okello: Thank you, Mr. Temporary Speaker. I thank the Hon. Peter Muhurah for raising this matter. This greave matter of deaths being recorded in Siaya County at this point in time is a greave matter indeed. What Hon. Oriaro was saying is that at this time and age, people should not die of cholera. We are so advanced in terms of technology, cholera that killed people in the 1990s and 80s should not be killing people if the County Government is doing things right.

This question about our disaster preparedness is also a response about our disaster management systems.

Reading the newspapers today, particularly the Standard Newspaper on page 18, where this matter is adversely talked about, I get to realize that the first case of cholera was detected on the 6th of February. 20 days down the line, we have deaths rising from this same story. If we cannot control cholera for 20 days, it is sweeping across the County, what are our structures? What are our responses? What are our mechanisms so that even as we discuss this today, how can we ensure that tomorrow we will not be talking about deaths in Bondo, Rarieda and in other parts of the County?

I believe this Assembly needs to take a stand on what is happening in structures and particularly there is a trend in this County especially the County Government where there is a lot of laxity. People quickly admit that there is a mistake but people don't bear responsibility. Somebody is sleeping on his job in this case and just Hon. Oriaro said, we have no business talking about people when the same people are dying.

What I am asking this House today is to take a clear stand, should the people continue suffering and nobody takes responsibility, nobody bears responsibility for deaths caused by laxity and lack of response, where disaster management has structures, if today there was an outbreak at Luanda K'otieno, what response do we have? This House needs to rise up as for the benefit and for the sake of entire population of Siaya County to ensure that our people are safe.

Hon. Awour said that health is devolved, and so is water and sanitation! The director of health says in this

newspaper that the reason why there is cholera is because people are drinking untreated water. It is his responsibility to ensure that Siaya people have clean and treated water. What solution is he offering now that he is blaming that the people of Siaya are drinking contaminated water? Siaya County Government is supposed to be responsible for water, water is a devolved function!

It is up to the County Government to ensure that people of Siaya have clean and treated water! They are talking about latrines, sanitation is a devolved function! In this County latrines have been constructed for over Kshs. 400,000. I am aware of a pit latrine in one of the markets which was closed because the County Government wanted people to pay Kshs. 5.00 and people would not pay Kshs. 5.00. That particular latrine is closed to date, it is not being used and these same people are telling us that the reason why there is cholera is because of poor latrine cover. What is the value of the money that was used in constructing these latrines at a cost of Kshs. 400,000? We construct latrines in our houses and we never use even Kshs. 100,000.

We are spending tax payers money irresponsibly, eating the tax payers money of Siaya County then when they die we start saying that they are dying because we don't have latrines, because there is no clean water yet we cannot even provide for them water. Recently we read a report in this House talking about Kshs. 4million that was used to dig a borehole, a borehole that we have not been able to locate in this County.

So, the same people who have eaten and chewed the money which is supposed to provide clean water are the same ones lamenting that these people are

not drinking clean water. We have to put to an end this hypocrisy and this conspiracy to kill and to wipe out the population of Siaya County by a few individuals in the Executive. I beg to support this Motion, let's find a reasonable way forward.

Hon. Ochieng: Thank you, Mr. Temporary Speaker, Sir; I want to start by thanking the Mover of the Motion for having considered the residents of Siaya who are endangered at this particular time and dying with cholera. I think it's high time the County Government give the residents of Siaya some answers concerning some issues of the people of Siaya. We have a very qualified public health officer and we shouldn't be facing such kinds of problems when we are having such a qualified person within our County and consuming our monies by the name of earning salaries when we are suffering.

We want answers from the Executive on the causes of Cholera because as some other Members have put it very well; cholera used to kill people in the early 80s and 90s and we still live in a situation whereby our people are suffering from cholera. If our people are educated on the causes of cholera; I know they will be working on how to prevent deaths from cholera. We want the Executive to tell inform us on the preparedness of our health facilities within our Counties so that in case of any outbreak of cholera our people should not continue dying as Hon. Okelo has just said it.

It is now 20 days down the line since the first outbreak was noticed and up to date we are still reading in our newspapers that it is still killing people because the preventive measures have not been put in place. I want to rest my case by

urging the Executive to come up with speed and see to it on how we can curb the situation that is affecting our people, thank you.

Hon. Awino: Thank you, Mr. Speaker, Sir; for this opportunity. I have Members saying that the first case of cholera was on February, I want to inform you that in Alego Sub County. Cholera has been around for a long time, in October; which was the first reported case. One person died and he so happened to be my next neighbor we are separated by a road.

When the report came it was that he died from cholera and he was buried within 6 hours after his death and after that there have been so many cases of people with diarrhea and vomiting. What my worry is when somebody diarrhea and vomits it's not full proof that it is cholera, it has been known that you can have malaria and you will vomit and diarrhea unless a sample is taken to the laboratory and proves that you have cholera that is when we will say that you have cholera.

Like this next door neighbor of mine, I believe he didn't die of cholera but the hospital that didn't even test his tool said he died of cholera. I had an encounter again in the month of 31st December and went on to January, I had a relative that was admitted in the same referral hospital and she came with symptoms of diarrhea and vomiting so it was said it was cholera. That fell on a period when the doctors were on December holidays and new-year; there were no doctors in the hospitals and you could only see nurses.

I made an attempt and talked to some doctors from outside to come and see what was given. They looked at the treatment and said that for cholera it was ok but this thing wasn't going away, this person was being given water and you

know cholera is the easiest disease to control. If you are put on water so that dehydration is not there within 48 hours you should be out of danger but when the 48 hours elapse the water was still given, nothing. Another doctor had to come in and he said that the sample be taken to the laboratory, the nurses who were supposed to take the sample refused and said they could take a sample from a cholera patient and the doctor had to do it for himself.

When the specimen went to the laboratory eventually it was said this lady was suffering from typhoid so the treatment changed from cholera to typhoid and when she a little better she was discharged on a Thursday but by Sunday night after that Thursday this lady was almost dying and we had to do something and this time round we took her to Bama hospital and immediately she was presented at Bama in the morning.

The Doctors from Bama even without conducting any test they said it was malaria and the lab also came up with malaria and this lady had been treated for cholera and typhoid and she was in the hospital for more than 7 days because it was severe malaria that she had to be transfused, she lived because we had to spend Kshs. 58,000 and many people cannot afford that. Before anybody is declared to have cholera make sure they have the lab results but here you are just treated and nobody know what they are treating, they don't care, they don't have a human heart.

Nobody in Siaya should die of cholera because it's the easiest thing to treat, I mean something I wrong and if you have not gone to that hospital where people who have diarrhea and vomiting are put then you can walk out because it has not affected you but it will affect you and

you go there, you will sympathize with our people. Something is wrong and I have said several times that I feel so hurt that in the 21st century people are still dying of cholera.

Cholera used to be there in the 70s when it started, 90s we came up with typhoid. In the 70s and 80s there were no chlorine dispensers, what was done is chlorine used to be out along the river system and not so many people died and Hon. Oriaro knows that in his Ward so many people have died. There is no need for people to suffer with cholera and this House must tell the Executive that they must come out and do something; the rivers should be chlorinated so that people don't die anymore.

You know how our people are, they don't like boiling drinking water or do something about it but we cannot leave them to die because somebody is not doing his or her work and let those who have diarrhea be taken to the lab and specimen tested to differentiate whether it is typhoid, Cholera or malaria, thank you.

Hon. Osuri: Thank you, Mr. Speaker, Sir; I want to start by thanking Hon Muhula for bringing this issue. Cholera is a contagious and acute infectious disease; however the good thing is that it's preventable if appropriate measures are taken in good time. Cholera keeps on repeating itself from time to time and anytime it is controlled there are also very high chances of likelihood of it repeating itself. We would wish to know the level of preparedness of our health workers to control this.

If we have clean water, we have known in these places where it keeps recurring, you find people bathing in water sources that are moving down stream at times. What measures have even our

administrators taking to sensitize people on the outbreaks of these diseases and also the level of the availability of drugs in case of such outbreaks? It is good that a number of health facilities have been constructed but it is not the structures it is a question of the drugs. Do we have the drugs that in case of any outbreak then that can contain this?

The level of our staffing in case of an outbreak, how do they go to the public to sensitize them on measures how to contain this disease and also in our public eating places like hotels and funerals. What are they doing to control this because it is high time that our Executive take appropriate measures to control this disease? I rest my case, thank you.

Hon. Oketch: Thank you, Mr. Speaker, Sir; for giving me this opportunity so that I also make my contribution towards this. I really want to say that this issue of cholera outbreak is now everywhere and also, in our public eating places; like the hotels and funerals. What are they doing to control this? It is high time the Executive took appropriate measures to contain this disease. Otherwise I rest my case. Thank you

Hon. Speaker: Hon. Margaret!

Hon. Ogutu: Thank you, Mr. Speaker for giving me this opportunity so that I also add my contribution towards this. I would love to say that we should really concentrate on this issue of cholera outbreak even more than the voter registration. Because, if we will lose people, we are losing people who will be needed to participate in the elections. I think we should see a way forward to it.

Cholera can be managed. And, maybe if there is a fault in the Health sector, does that mean that we have quacks

working in the hospitals? I think if we truly have qualified doctors, then, they cannot just assume that we have an outbreak of cholera and let patients go unattended. But, if they are quacks, then they can say anything and ignore the outbreak. That is all I wanted to say.

Hon. Speaker: Yes, hon. Aneme!

Hon. Aneme: Mr. Speaker, Thank you very much. I also wanted to add my voice on this issue. I think the time that we have been waiting for has come. When it comes to Health issues; we must be mad just the way hon. Aneme is mad. The CEC (County Executive Committee) in charge of Health and his department has let down the County of Siaya as a whole. Health issues are very serious and not a joke.

I wanted to give way forward. It has come a time that we must compel; the CEC in charge of Health to come up with a report and tell us vividly and strictly what he has been doing in order to arrest this kind of situation. There has been a tendency from the Executive Department that; whatever that has been discussed here, when taken to them to take action, they don't take it seriously.

I think it is better if we change the tactics and dimensions. I would like to persuade my colleagues to compel the CEC Health and all his team to come here and address us. So that we probe them to think because, you would think that they know yet they don't. If you see the way they are employed, some of them don't know.

Recently, we were losing a friend in Bondo; who was misdiagnosed with TB (Tuberculosis). The man fell sick and was dying. He was taking TB drugs yet he was not suffering from TB. When taken to Kisumu, the man was discovered to have been misdiagnosed in Bondo and was

given TB drugs yet he was actually suffering from Pneumonia, and cold contacted from the riding motorbikes.

These people should be compelled to come here time and again so that they give us directions and tell us exactly what they are doing. There are no drugs in the hospitals; there are no basic things like soap in the hospital.

Recently, we opened a dispensary in South Sakwa, we had a staff but, there were no drugs. We had to release the staff to go work in Bondo where drugs are because he was doing nothing there.

So, the CEC in charge of Health and his team should come to this House and tell us exactly what he is doing with the Health Department. When it comes to Health issues; we are demanding. But, because they don't listen to verbal invitations, I think this time round we should have documented invites and release the Act of...to come forward and tell us what they are doing in those offices.

After all, I don't want to talk about the monies. There are funds that were released by the National Government for the Delivery Sector. When you happen to meet personnel from the dispensaries and even from the hospitals in Siaya; they will tell you that they don't know where these monies are.

These are some of the things that they should come and explain here. We can't suffer yet all systems have been in place. There are monies, drugs, help from the National Government together with what the County Government where there are Health resources; the people are dying yet resources are diverted to somebody's pocket. Thank you, Mr. Speaker.

(Hon. Okello rose on a point of order)

Hon. Speaker: Yes, Walter!

Hon. Okello: Mr. Speaker, the hon. Member Aneme has made a very good and wonderful proposal. But, he has failed to give a definite timeline within which the CEC and his team should be compelled to come to this Assembly and address this very urgent purpose. Could hon. Member give a definite time with which that observation should be executed.

(Laughter)

Hon. Aneme: I believe in action Mr. Speaker, let this person appear to us next week on Tuesday.

(Hon. Member spoke off microphone)

So many people die. I propose.

(Applause)

Hon. Speaker: Hon. Otare

Hon. Otare: Thank you, Mr. Speaker, Sir. Its better late than never. I have been trying my best so that you can see me.

It is quite unfortunate to hear people still die of cholera in a County like Siaya, the best County in the country. There are people sleeping on their jobs. If we have staff employed by the County Government yet people still die of cholera then; there are staff not doing their job.

This morning, we were with His Excellency the Governor, at the referral hospital. He admitted that people are dying at an alarming rate.

This House, mostly the Committee of Health should do something before next week. Mr. Speaker, maybe there are forces that are against devolution. Because, the way people are dying means the county governments cannot do their work whereas Health is devolved 100 percent. If we have forces against devolution; that want the people to say that we are failing, then we should work to make sure that this people are done away with.

If people can still die of cholera; yet if you look at the budget of the County Government; you will find that a lot of money is banked in the Health docket. Mr. Speaker, people can tell us how much money is put aside for emergencies such as cholera outbreak.

Recently, two people died in and the distance between Kadenge and referral is less than a kilometre. If this will happen in...and the distance from Kadenge and the referral is 7 kilometres then; how many people will die?

I want to ask this House to make sure that the County Government or the Executive know that the County Assembly is doing something. If we talk like this; and then tomorrow or next week there will be no action, then the people of Siaya, instead of going to register as voters we will be burying people. And then, next time you will be told that there are no voters and the people cannot vote.

(Applause)

(Hon. Gare interrupted)

It is not over, I was given 3 minutes. Bwana Chief Whip...

Otherwise, that was alarming, and if you go to the referrals today, the work that is being done is very much encouraging. We cannot say that we appreciate the refurbishment yet our people are dying. So, we should do something about the death of people of Siaya.

Hon. Speaker: Yes, hon. Gare!

Hon. Gare: Thank you, Mr. Speaker. I also want to add my voice on the same matter before the House. First and foremost, I want to say that cholera is a waterborne disease that is so contagious

and acute that it can kill within a few hours if not attended to well.

I would wish to say that the first thing that we need to change is attitude. Attitude for our health workers and our people that we are leading, because, even the way people do their activities in the market; they also need to be talked to.

Let us not only blame the health workers, even our people stay in pathetic situation. Some people cook along the way, and when they are told not to they say we are ...because they elected us. We need to tell them the truth so that they change their attitude so that we get a way of preventing this disease.

We cannot only say that we need to talk to the health workers alone. Even they too need to change their attitude. Mr. Speaker, for sure, even the health workers need to change their attitude. We have heard of cases where the health workers don't want to take care of these patients when they realize that it is cholera. Some of them do not even want to touch them.

This has been noticed and we want to come out very clearly that the health workers need to change their attitude towards these patients because if they don't change then our people are going to die more. We have been told and we are aware Mr. Speaker; is that the level of preparedness that we are talking about is not good.

One of the most important things that we need to have in our health facilities is to ensure that we have ...fluids. Without this fluid we will not manage cholera, and you realize that up to now that we have an outbreak, we do not have the ...fluids. We need to move with speed to ensure we have the...fluids. This is the first management that is given to patient with cholera so that they are hydrated.

Mr. Speaker, we have been talking about the Committee. As a Committee of Health, tomorrow we shall meet the CECM in Health to tell us the level of preparedness that he has put in place that we need to report back to this House, so that we know what we are talking of. One most important thing that we need to do in our health facilities is to make sure that we have IV fluids because without them we will not manage cholera.

We realize that up to now if we go to any health facilities in Siaya we will find that there are no IV fluids even as at now that we have an outbreak. We need to move with speed so that we make sure we have IV fluids, this is the first treatment that we should give to a person with malaria so that we rehydrate the patient.

As the Committee on Health we are also trying and tomorrow we are meeting the CEC of Health to tell us the level of preparedness that he has put in place. We need to report back to this House so that we know how prepared they are and more so when we are talking of things like IV fluids. Are they there in stock so that our people can be treated when they have such cases?

We said that cholera is a waterborne disease. As leaders one of the things that we need to do is to make sure that we also budget for clean water in our areas because when we are saying it is a waterborne disease and some of our Wards people are still drinking water from pots. Some mothers bathe outside there and when it rains this water is washed up to the same pot without even an outlet.

We are saying that as leaders let us also come out so that when we are budgeting we make sure you are targeting clean water to your area so that we prevent this disease. Prevention should start with

us as leaders that we Budget for clean water.

I want to rest my case by saying that we are seriously affected and we need to move with speed. We are calling the CEC of Health as the Committee on Health, we will come back here possibly on Tuesday with a Report on the level of preparedness of Siaya Health Facilities now that we have cholera outbreak. Thank you.

Temporary Speaker (Hon. Abayo): Yes, Hon. K'Owii.

Hon. Owii: Thank you, Mr. Temporary Speaker, Sir, it is very unfortunate that I have to speak much later it has been a tradition but I have to accept it. I want to thank Hon. Muhula dearly. The truth of the matter is that we know ourselves better. We are representatives of the people that are dying and those places that there is outbreak of cholera and we can even take the health officials to those particular areas to determine the cause for the same.

We do not just need to come here and say it is failure of the Office of the Governor while you find that in some places people don't maintain hygiene. You find that in some areas so many people are in a home and there is no single latrine. Hon. Walter was talking about what happens in markets. Will our people move to the markets because the County Government has built some latrines and they are now opened for people to use them? Why wouldn't we tell our people to build or construct latrines in their homes?

In the past we were told that before you drink some water from whichever source you should actually be keen to ask if that water was boiled. Do we ask such simple questions do we inform our people about the same. People are

supposed to be educated on the same in fact until they die. We need to inform our people to keep simple hygiene.

I fear to mention this because it would appear so sensitive but you will find that you drive around and you don't see any latrine and yet you are passing many homes. Maybe you know those places because they are in Siaya and that is why the outbreaks have to start in those areas.

In Rarieda we do not have cholera, we have beaches but we have talked to those people. In the past cholera was starting in beaches but that is not the case now. So I think one important thing that we should inform our people about is keeping our hygiene. Some people just eat without washing their hands and they think they cannot get cholera. Even if they refurbish the County Referral Hospital it will not make it better for us.

The only things I agree with most people on is one, that the level of preparedness is key even as at now we would find that there are all those gadgets that would assist us to control cholera in all corners of this particular County and in each and every health facility.

The truth is that if people are keen in keeping hygiene then cholera is a thing of the past but as you drive back you also watch where you come from and see if people are really keeping hygiene. Thank you.

Temporary Speaker (Hon. Abayo): I think Hon. Members have ventilated on this issue as a matter of urgency especially on level of preparedness. I wish to direct that the Committee on Health as has been alluded to engage the relevant stakeholders to have all the facts so that we get this Report on Tuesday at 2.30 p.m. Let us process it and if possible have that Report so that all the

Members this House are informed that this is the situation, how is it being handled? Who are involved? Where the Hon. Members would also want to be part of the solution they be allowed so that we get a lasting solution.

I think we have had challenges that we need to agents of change as regards to this particular issue, for some areas it is just negligence. So the Committee on Health on Tuesday 2.30 p.m. let us have a comprehensive Report on cholera outbreak in Siaya.

MOTION

ADJOURNMENT

Temporary Speaker (Hon. Abayo): Yes, Hon. K'Owii.

Hon. Owii: Thank you, Mr. Temporary Speaker, Sir, while we are thanking our colleague for having brought up the issue about cholera and given that we have exhausted all matters that were in the order paper today. I want to Move a Motion of adjournment that this House adjourns until Tuesday, 1st March, 2016 at 2.30 p.m.

I want to call upon Hon. Angul to second.

Hon. Angul: Thank you, Mr. Temporary Speaker, Sir, I second.

Temporary Speaker (Hon. Abayo): Before we adjourn there are two Reports that were laid on the Floor on the House.

- a.) Report on the stability interview on the defunct local authorities' staff in all the Sub Counties.
- b.) Report on Human Resource Manual for the County Government of Siaya.

We want to ask the Committee on Governance and Administration to look at those documents.

I have seen a letter to this manual that states that they expect feedback on this particular manual within 14 days. I want to mention that the Public Service Board does not have authority to direct the House on when they should be able to get feedback but we will be asking the Committee on Governance and Administration to expedite this as soon as possible.

I therefore propose the question that this House adjourns until Tuesday, 1st March, 2016 at 2.30 p.m.

(Question put and agreed to)

The House rose at 3.37 p.m.

TUESDAY, 1ST MARCH, 2016

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

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

PRAYER**PAPERS****FISCAL STRATEGY PAPER 2016/17FY**

Hon. Otieno: Thank you, Mr. Speaker. Allow me to lay the re-submission of County Fiscal Strategy Paper 2016/17 FY.

Hon. Speaker: Committee on Finance, take charge!

BILLS

- 1) THE SIAYA COUNTY QUALITY IN LEARNING & TEACHING BIL
- 2) THE SIAYA COUNTY PERSONS LIVING WITH DISABILITY

Hon. Speaker: Any update from the Committee? Any progress? Yes, Hon. Zilpa!

Hon. Omondi: Mr. Speaker, on behalf of the Education fraternity, we want to request for more time so that we incorporate some new information that we have got from experts to enable us come up with a Bill that will represent views. At the moment we are intending to work on it this week and come next week we shall bring back our report to this House. Thank you.

Hon. Speaker: Okay, kindly make sure that you fast track the input and you up the Bill for the second reading done with your report. Any progress report on the persons with disability Bill? And it is not going to the third reading as indicated

in the Order Paper! Who is in charge with Persons with Disability Bill?

Hon. Omondi: Mr. Speaker, it is also under the Education Committee and I think we shall bring all of them next week.

Hon. Speaker: The same communication applies!

MOTION**ADJOURNMENT**

Hon. Otieno: Thank you, Mr. Speaker. Having had from the Member standing in for the Committee on Education, that their reports or program are getting prepared later, that one now calls the office of the Majority Leader to go to Standing Order no. 26 which stipulates that pursuant to Standing Order no. 26(3), stipulates that;

On a day when the County Assembly schedule to adjourn to a day other than the next normal Sitting day in accordance with the County Assembly Calendar, the Leader of Majority Party shall give a Motion of adjournment which shall be debated for not more than three hours after which the County Assembly shall adjourn without question put.

I wish to inform the Hon. Members that the House shall adjourn today until Thursday 3rd March, 2016, afternoon Sitting, to provide ample time for Committees to consider all the pending Bills in the Order Paper and report to the House at convenient time, and also for the other Committees to finalize on their pending reports. Thank you.

Hon. Speaker: Any debates?

(Silence)

Hon. Speaker: There being no debates then will we be upstanding for adjournment.

(Members rise for adjournment)

Hon. Speaker: Hon. Members, this House adjourns until Thursday, the 3rd March, 2016 at 2.30 p.m. Tomorrow morning and afternoon Sessions will not be there.

The House rose at 2.40pm

THURSDAY, 3RD MARCH, 2016

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

[The Temporary Speaker (Hon. Abayo) in the Chair]

PRAYER

Managed Water Projects laid on the Table of the House.

COMMUNICATION FROM THE CHAIR**VISIT BY NDERE MIXED SECONDARY SCHOOL**

Hon. Temporary Speaker: Hon. Members, I wish to draw your attention that in the Speaker's gallery we have Ndere Mixed Secondary School from South Gem, Gem Sub County. We want to welcome them to this Session.

(Applause)

PAPERS**SIAYA COUNTY COMMUNITY MANAGED WATER PROJECTS**

Hon. Ngure: Thank you, Mr. Temporary Speaker. On behalf of the Chairperson, I wish to lay on the Table of the House a report of the Committee on Water, Environment and Natural Resources on the Siaya County Community Managed Water Projects.

**NOTICE OF MOTION
SIAYA COUNTY COMMUNITY
MANAGED WATER PROJECTS**

Hon. Ngure: Thank you, Mr. Speaker. I wish to give a notice of Motion on the report of Siaya County Community

STATEMENTS**1) UNFAIR TRADE PRACTICES
AT YIMBO – USENGE BEACH**

Hon. Ochieng: Thank you, Mr. Speaker, for having given me this chance.

AWARE OF the provisions of Part 2 of the fourth schedule of the Constitution of Kenya, 2010 that mandates County Governments to deal with fair trading practices;

AND WHEREAS Section 120 (3a) of the County Government Act, 2012 requires that there shall be equitable treatment of users of public services with regard to charging of tariffs and levies.

CONCERNED THAT Nile Perch traders from Ndeda, Wichlum, Kamariga and Obenge beaches are currently subjected to unfair competition and other business vices by traders from Uganda in the manner that the Ugandan traders are not charged any tax or levies, despite them benefiting from services offered in the said beaches by the County Government;

DEEPLY CONCERNED THAT this exemption gives Ugandan traders undue advantage which they are exploiting to drive Kenyan traders out of the market; Subsequently our citizens whose livelihoods depend on fish trade are facing joblessness and possible extinction, besides this County losing the much needed revenues;

I would like to know from persons in charge of trade and other relevant offices what they are doing or plan to do to protect our traders; and also plans to deal with the stated revenue leakage resulting from the behavior of the Ugandan traders operating in the Kenyan beach markets. Thank you.

Hon. Temporary Speaker:

Thank you. This one we commit to the Committee on Trade.

2) EL NINO COMPENSATION

Hon. Ochieng: Thank you, Mr. Speaker.

AWARE THAT the Siaya County was given Kshs. 93 Million by the National Government for El Nino preparedness and related interventions; this is besides the Kshs.10 Million that this County Assembly allocated towards the same;

CONCERNED THAT most of us, the peoples' representatives, have been receiving numerous complaints about people who were displaced and negatively affected by the rains;

FURTHER CONCERNED THAT attempts have been made by relevant committees of this House to derive the truth about the level of utilization of the said funds with no dependable results;

I would like to know the plans the executive have to compensate the deserving cases of Siaya citizens who are out in the cold due to El Nino effects, yet adequate resources are available to assist them. Thank you.

Hon. Temporary Speaker: I will commit that to the Committee on Governance and Administration.

3) USAGE OF PROJECT SUPERVISION FEE

Hon. Gare: Thank you, Mr. Speaker, for allowing me to put a Statement request on usage of Project Supervision Fee.

AWARE THAT in the award and administration of tenders related to development projects in the County, the executive charges 10% of the total award amount for project supervision;

FURTHER AWARE THAT for each project, there exist a Project Management Committee responsible for effective implementation and management of the project for which it is appointed;

CONCERNED THAT projects completion have always fallen behind schedule in this County on the basis of delayed supervision and failure by the executive to honor subsequent contract progress payments;

I would like to know the manner in which the 10% of the contract amount has been used since the County Government started its operations in 2013; I would also like to know the basis of existence of the Project Management Committees, the standards of the work they have done so far and remunerations that accrue or have accrued to them thereof. Thank you.

Hon. Temporary Speaker: Thank you, Hon. Gare. That Statement should go to the Committee on Public Works and Infrastructure.

4) STATUS OF WASTE DISPOSAL AT AKALA AND KAMBARE MARKETS

Hon. Ombee: Thank you, Mr. Speaker, Sir, for allowing me to put a

Statement on Status of Waste Disposal at Akala and Kambare Markets.

AWARE THAT the Siaya County executive department of Water, Environment and Natural Resources made a commitment in their 2015/2016 budget sub program 2.2 on waste, refuse and waste dumps;

WHEREAS this commitment has a key output of effective solid waste collection and disposal; and cleaning of all towns, markets and beaches in the whole County;

CONCERNED THAT the status of refuse collection and disposal in Akala and Kambare Markets in South Gem Ward is in a state of despair – refuse waste has not been disposed of now for about three years. Currently refuse is being dumped on the road to the cattle ring completely blocking road access in Akala; In Kambare, refuse has been piled up in the middle of the market.

DEEPLY CONCERNED THAT the two markets being some of the largest markets in the ward and major revenue sources for this County are now nearly collapsing with mounting waste posing serious health hazard to traders;

CONCERNED FURTHER THAT the traders and other residents have now threatened to refuse to pay taxes and hold demonstrations if this problems are not addressed in due course;

I request the County Executive Committee member concerned, to explain why the markets are in this state and also immediate plans in place to protect the traders from dirty conditions they are exposed to. Thank you.

Hon. Temporary Speaker:

Thank you, Hon. Ombee. The Statement goes to the Committee on Environment, Water and Irrigation.

5) TENTATIVE BUSINESS OF THE ASSEMBLY FOR NEXT WEEK

Hon. Otieno: Thank you, Mr. Temporary Speaker, Sir. Allow me to share with the House Tentative Business for Tuesday, 8 March to Thursday March 17, 2016. Published pursuant to Standing Order 36(1), it is notified that the House Business Committee, at their last meeting, approved the following tentative business to appear in the Order Paper for Tuesday, March 8th, Wednesday, March 9th, and Thursday, March 17th, 2016.

- a) The Siaya County Annual Development Plan – Committee on Budget, Appropriation, Finance and Vision 2030.
- b) Wednesday, March 9th, 2016 (Morning Sitting) – The Siaya County Budget Review Report for the First Quarter ending 30th September, 2015 – Committee on Budget, Appropriation, Finance and Vision 2030.
- c) Wednesday, March 9th, 2016 (Afternoon Sitting) – The Siaya County Budget Review and Outlook Paper (CBROP), 2014/14 – Committee on Budget, Appropriation, Finance and Vision 2030.
- d) Thursday, March 10th, 2016 (Afternoon Sitting) – The Siaya Fiscal Strategy Paper – Committee on Budget, Appropriation, Finance and Vision 2030.
- e) Tuesday, March 15th, 2016 (Afternoon Sitting) – Report on the Status of Implemented 2014/2015 FY Agricultural projects –

Committee on Agriculture,
Livestock and Fisheries.

- f) Wednesday, March 16th, 2016
(Morning Sitting) – Report on the assessment of the Administrative capacity of the Sub County administration and its effectiveness in the decentralization of devolved functions – Committee on Public Administration and Governance.
- g) Wednesday, March 16th, 2016
(Afternoon Sitting) – Report for the Committee on Water, Environment and Natural resources on the status of tree planting activities from FY 2013 to date – Committee on Water, Environment and Natural Resources)
- h) Thursday, March 17th, 2016
(Afternoon Sitting) – Report for the Committee on Water, Environment and Natural Resources on the status of Siaya-Bondo water supply and sanitation project – Committee on Water, Environment and Natural Resources.

That is the end of my Statement,
thank you.

Hon. Temporary Speaker:

Thank you, I wish to ask the office of the Clerk to make sure that as the schedule has been given, necessary arrangements are made to avail the documents on good time and also to notify the Chairpersons responsible that they need to prepare in advance to be able to move these particular Motions. That means that they should be able to avail these reports in good time so that the office of the Clerk can process the same. I wish to clarify that there is a Statement by Hon. Ombee on the waste disposal at Akala and Kambare market that I have noted on the Committee on Environment. I wish to correct that this is

an issue of public health. I therefore commit it to the Committee on Health Services and not Environment. Next order!

MOTION

SIAYA COUNTY COMMUNITY MANAGED
WATER PROJECTS

Hon. Temporary Speaker: Yes, Hon. Pamela Ngure!

Hon. Ngure: Mr. Temporary Speaker, on behalf of my Chairman of the Committee on Water, Environment and Natural Resources, I wish to give a report to the House on the Status of Community Managed Water Projects in Siaya County. The Sectoral Committee on Water, Environment and Natural Resources in constituted under Standing Order no. 192(1) of the Assembly Standing Order, is mandated to oversight “all matters related to water, sanitation and irrigation services” has the honor and privilege to present the report on the status of Community Managed Water Projects in Siaya County.

Hon. Awour: Mr. Temporary Speaker, I am enquiring if it is in order for the Chairperson to read us a Statement or the report without Members having the reports?

Hon. Temporary Speaker: Could I know how many Members don’t have a copy of the report?

(Loud consultations)

Hon. Temporary Speaker: All Members should have copies of the report.

Hon. Ngure: Thank you, Mr. Temporary Speaker. This is a very committed Committee and we made sure ...

Hon. Temporary Speaker: Hon. Pamela, could you go on with your report!

(Laughter)

Hon. Ngure: Mr. Temporary Speaker, I need to go on with this report which comes from a very competent and efficient Committee. The following are the Members of the Committee:

1. Hon. Elisha Okuku -
Chairperson
2. Hon. Peter Ombee -
Vice Chairperson
3. Hon. Hilda Otieno -
Member
4. Hon. James Munda -
Member
5. Hon. Nicholas Were -
Member
6. Hon. Pamela Midumbi -
Member
7. Hon. Teresa Osore -
Member
8. Hon. Joseph Agoko -
Member
9. Hon. Christopher Apiyo -
Member
10. Hon. Pamela Ngure -
Member

The Basis of this report, is to establish how water projects are managed by communities in order to find out if there are any challenges or limitations that should be addressed by the County Government. On the 26th of October, 2015, the Committee on Water, Environment and Natural resources held a meeting and resolved to visit community managed water projects which are not funded by the County Government to assess whether they are operational, identify challenges if any and project sustainability.

Method

The Committee visited the project sites and met members of management committee of respective projects. On 2nd November 2015, the Committee visited Obaga community water project in West Asembo Ward, Kunya borehole in North Uyoma Ward in Rarieda Constituency and in Bondo Constituency the Committee visited Agola Ramogi water project in Yimbo East Ward. On 3rd, November, 2015, the Committee visited Masat community water project in Ugenya West Ward, Simenya water project in Sidindi Ward and on 29th February 2016, the Committee visited Ith water project in North Alego Ward.

Findings

Obaga Community Water Project

The project was initiated as a response to the need by the local community for safe and clean water. This project is sponsored by the Living Water Service Centre Kenya and is operational. It is powered by electricity which they pay a monthly bill of approximately Kshs. 2500 per month. They have a water treatment plant within the project. They charge Kshs. 5 for 20litres of water which generates approximately Kshs. 1000 per day. It has a capacity of serving over 2000 households if distribution is expanded. There is a diversion that serves raw water to horticultural activities within the area.

Challenges by the local community

- 1) The reach of the project is limited given low level of distribution
- 2) There is persistent power blackout which interferes with pumping of water.

The Committee observed that the project management committee is strong.

Project specific recommendations

- 1) Extension of distribution to many households
- 2) There is need to install solar powered pumps by the County Government.

Kunya Borehole

The project was started in 2010 and is sponsored by Living Water Service Centre Kenya and is an ongoing project. It was started to address early marriage among school girls who used to fetch water from Lake Victoria very late in the evening after school thereby exposing themselves to suitors who were taking advantage of the cover of darkness to prey on innocent victims. Crocodiles were also a menace to the local community as they went about fetching water from the lake.

The project coordinator wrote a proposal to Water Mission Kitale for solar power which they got and are in the process of installing. The source of water is a borehole. They have distributed connection to households down streams in one village only, while the original plan was to connect the water to four Sub Locations.

Challenges by local community

- 1) Outstanding electricity bill of Kshs. 20,000
- 2) Extension of distribution upstream
- 3) The water is salty

Our observation was that the project management committee is strong.

Recommendations

- 1) Extension of distribution to the four sub locations by the County Government
- 2) Payment of pending electricity bill by the County Government department of Water, Environment and Natural resources.

Agola Ramogi water project

The project was started in 2010 as a response to the need for safe and clean water by the local community. It was sponsored by Finland via Water Services Trust Fund. It has not been operational for five months because a road contractor who was doing a road from Lake Sare to Got Ramogi Resort destroyed water pipes. The source of water is Lake Sare which is an ox-bow lake. The valve had not been operating for one year even before the pipes were destroyed. The source of power is diesel.

Challenges by local community

- 1) Destroyed water pipes
- 2) High cost of operating diesel engine.
- 3) Lack of water

Recommendations

- 1) The road contractor to compensate the community
- 2) County Government to install solar powered pump
- 3) A new valve to be bought by the County Government

Bar Ober Community Water Project

It was started in 1976 as a response to need for clean and safe water by the Community. The source of water is spring and it is powered by electricity. The tank has a capacity of 30,000 liters and has four water kiosks.

Challenges by local community

- 1) Limited intake capacity
- 2) High electricity bill

Here we have established that it was started in the 1976 as a response to need for clean and safe water for the community. The source of water is clean and is powered by electricity. The tank has a capacity of 30,000 liters and has 4 water

kiosks; the challenges faced by the community are the following:

1. Limited intake capacity.
2. High electricity bill.

Specific recommendations are that;

- a. Solar panels be installed by the County Government.
- b. Enhancement of the intake capacity.

We then proceeded to Singa Nyawita community water project; here the water source is a Bohole and was established as a response to the need for safe and clean water by the local community. It is distributed to the local schools as well as homes. Water meters are installed by the individual users and they also have a challenge in water tanks.

After this project we went to Simenya water project which its water source is also Bohole. It was established also for the sole purpose of providing clean water. It powered by solar and the reservoir is complete while the water kiosks are yet to be completed. The specific Committee recommendations were;

1. Water kiosks to be constructed.
2. Water meters to be established.

The next project we visited was East community water project and was started because the community was in dire need of water. The project was sponsored by world vision and its source of water is rain. The County Government did repair it when the clogging blocked the water pipes. The challenge of chemical supply for the water treatment is erratic and the recommendation from the Committee is that the Government is to provide the chemical for the purpose of treating the

water. In view of the above the Committee observed that the community water projects are resourced out but although we read here that they have strong teams of management yet they lack qualified personnel who in case of breakages or when there is leakages and any other repairs which are of professional nature then the community members might not have such a person among them to help.

So, we recommend that they need professions too and we also observed that the cost of chemical for treating water is exorbitant. Since these projects are run by the community and perhaps some of them are funded by donors and they need to carry on with the running of the projects.

The cost of buying chemicals for treating the water then becomes exorbitant and unaffordable for the community. Most projects are powered by electricity which apart from being expensive is very erratic and as I said earlier they lack technical capacity to run the projects. In conclusion the Committee noted that the community needs to offer palm mirrored challenges that will set them in the process of managing these projects and if left to their own design, the projects will be run down then public and donor funds will go to waste. So this problems need to be addressed as we observe them. We therefore recommend here that;

1. The County Government should subsidize payment of electricity bills for community managed water projects and area MCAs to allocate funds for the same.
2. The County Government department of water to do closely monitoring of

community water projects for efficiency.

3. The County Government department of water, environment and natural resources to formulate a policy that compels the road contractors who destroy water pipes in the cause of their work to reinstate the water pipes and compensate the affected community.
4. The County Government department of water, environment and natural resources to provide chemicals to community managed water projects that need it for example shadow wells, Dams, springs, River water and lake water.

Our submission on behalf of the Committee and pursuant to Standing Order number 192(e) and (g) it is my pleasant duty to Table in the Committee Report this day; the 3rd of March, 2016 and urge that the Report be adopted by these Honorable House so that our some of these communities can enjoy water like the rest of Siaya County residence. On behalf of my chairman I thank you Mr. Speaker, Sir.

The Temporary Speaker (Hon. Abayo): Hon. Members, I therefore wish to propose the question that these House adopts the Report on The Committee of Water, Environment and Natural resources of the Siaya County community water managed projects.

Yes, Hon. Muhula!

Hon. Muhula: Thank you, Mr. Speaker, Sir. I don't know who is..... Okay I thought Hon. Oriaro is still havoc. I also want to thank the Committee for bringing this Report to the House. When I

was looking at this Report very keenly the representation of this Report is lies. I have looked at the production of this Report unless it's sampling of whatever is happening in Siaya County. This is only a representation of 7 Wards out of 30 Wards.

Secondly, in my observation there is no consistency in the Reporting of this because there are other water projects that were initiated and time indicated while some are not. The reason I was talking about the commencement date is to relate it to the exit plan that the people who initiated this projects had because some of the projects date back as 2010 and 1976.

If by 1976 there was already a water project that people were even contributing money for and its only up to now that the Water Committee is coming up to tell us that the County Government should come in and assist while they cannot explain where the monies that were being contributed went to for the purpose of sustainability of these projects.

I am looking at a point where by the project management committee is strongly recommending again for the extension for the distribution. When we look back at the exit strategy; what was the plan? And what was left for the community to do? Because by that time there was a commencement of the project and they were given at central point. Then what did that project planner agree with the community in terms of distribution? How have they been doing since that time till now? Five years down the line if a project is started and no any or no distribution has been indicated then it's a sign that the project management committee is not serious with the project. The issue of water as much as it is very strong in this County you can see that there is failure on the side of SIBO on the

issue of sustainability and maintenance of water by the water Board.

When we look keenly, we find that there is default in paying the water bills. This becomes a tradition on the commonest person that once they have been given this projects by the donors, they tend to take for granted and wait for that donor to come. While we appreciate that this water helps we must agree to tell the community that there is a responsibility to sustain this water and ensure its existence as well as its supply.

You cannot be given something that we are only good at obtaining the project but also poor in maintaining that project. They were supposed to have been given a chance to show the water Committee that there was some trying of helping the issue of paying the bills by collecting some monies, because there is red seeking market that they have by charging the community money whenever they fetch the water. Why do they have to fail?

There is somewhere within this Report where it's indicated that the water point collects more than a thousand per day. At the end of the month because there is no any other overhead cost other than electricity and possibly looking for chlorine. Thirty thousand a month and water point cannot fail to pay for power bill, so this could be negligence.

The only thing in which I could agree with and again they have not indicated here, would have been to help train the management of water points by the County Government and that by the way the County Government could have afforded. But we cannot say that we start paying the bills, start installing generators when actually maintaining what they have

is already problem. This was created to do two things:

1. Supply water.
2. To also be an income generating project to that community and that is lacking from these point.

Setting up a water project without a water kiosk is a failure to the management committee given that the essence of the project was so that water can reach as many as possible. The only best way and all of us should agree that the rate of an investment can only be commiserated with the letter of return on those investments and one of the things if you want to get direct returns on those investments you must give initiative to open the revenue seeking windows. One revenue seeking window in any water project is extension to have the water kiosk away from the water source.

I want to agree that the Water Committee took their time to walk around, but however we would pray that they had done it in each and every Ward then we could be having a good representation other than going to seven Wards.

Again in the seven Wards they were only picking one water point, is that well presentation that we can say today that Siaya County Government has done well? It will be a very shallow way of doing an observation. It's not presenting what actually this House could have wanted. Because what we want is that if they went through out the 30 Wards then we get insufficient in the supply to the Committee of Water and then this House could have resolved that what we do is putting it as a policy that County Government should make it sure that each and every area has access to water with relevance to reducing the adequacy or the

coming up of cholera that has eaten up our County.

We are happy that the Water Committee went out and come up with a Report. But what we are asking is that; let them give the Report in detail including the exit strategy that the project initiators led with the Committee that were managing the water today, then we see the plan that they had before the water project went to them. From there we will come to a common ground then advice the House to take the position and give their views accordingly that will help the County Government.

Am also seeing in the recommendations here that the MCAs should allocate funds for the same, to whom and where? Are they initiating their own projects or pumping money in projects that never even took off? When we do budget here we do it actually to conserve the spring waters or help for the extension. Because there was a plan when this water projects were being started. You cannot sink water money where those people who were managing it have refused to collect that money and use it effectively.

Money can never be sufficient but the difference between efficiency and effectiveness is that you do things right and with the little resources which the Committee of water has not demonstrated here. I would urge the Committee to go on and write a good Report that this House will adopt and we will see how they function. Thank Mr. Speaker, Sir and I stand to object it.

The Temporary Speaker (Hon. Abayo): Hon. Oriaro.

Hon. Oriaro: Thank you, Hon. Temporary Speaker, I want to thank the mover on behalf of their chair for having unearthed their work as contained in the

Report. Again there is one thing that is very clear that the philosophy of origins albanates of Sectorial Committees or any Committees of the Assembly in such as to under saw one thing that the House cannot do such works requiring complexities. In deed if we underscore the division of labour, so we really find relevance of the Committee on Water entirely.

So, the first question is that am at pain to tore the line by the mover that this House adopts this Report, personally as representative for the people of Central Alego indeed their voice. I am at pain to communing with them in giving bat to this Report. That one question, if the House were to go out to handle the water issues as brought before us. What is it that they would have done which the House feels should be done by such a Committee? What we are having is way below average and it is even difficult to handle matters the way things are today just the way the son to my aunt Hon. Muhula has spoken.

Look at the issue of even urging the Members to put up a budget, and I believe if we read what is in the news as of yesterday on line where the cabinet secretary in charge of finance has gone to the extent of amending regulations of public finance and management to the extent that the Governor is given a lie way such that whatever he wants to be done is done and the Assembly has got a power to amend only 1%, which none the less we are automatically removed from budget making.

Therefore, if such recommendations are not powerfully opposed at National level then such a Report will take us nowhere. The one thing which is very clear is that the Committee was route to do a fact find on the status of Community Managed water projects in

Siaya County. Are we seeing that in it? What was the point of departure? Was it by way of assortment? Which is not, the Committee just sat and decided to go out. Did they really have a clear point of departure? This one is missing. Yes, if at all they had, what is in the Report? Are there some methodology called and indeed methodical research quill? Is it really made here? This goes for the abasement of the House because I believe and it's a fact that such Reports are to be found on the website of the County Government to be read by the world. Fortunately members of the public and student have gone out.

What if they were to be here to see how Members are transacting? Isn't it self-abasement in our collectivism and even to us who are known as Members but this is what we are doing in lack of sound methodological and indeed methodical research quill.

We note when they went out and we know that there are statistics; six sub counties we used to have and they are indeed absorbed by the Government, the water department and technocrats. If you work in Alego Usonga and you go to that department you will find evidence and even the water sources locations.

They have made classifications whether if they are water pans, dams, rivers, shallow wells, springs and bow holes pumped by the mechanical pumps. They want to employ electricity while all those can be found if we just go to the other departments and they are there. That ought to have helped the Committee on what to choose as well as where to start from and which one is weightier.

It is very clear empirical prosperity to imperialism statistical research if it is learning in this, Mr, Temporary Speaker, Sir...

The Temporary Speaker (Hon. Abayo): Yes Hon. Walter what is your point of Order?

Hon. Okello: Mr, Temporary Speaker, Sir, the Hon. Member Hon. Oriaro in his contribution has consistently referred to issues of empirical, imperialism and methodological which are all complex terminologies which in my opinion as a person who is a statician by profession and one of the statistical analysis and this would be modest if we were doing a thesis or something. I don't think that the Water Committee was here to defend a thesis or was on an academic search the Hon. Member makes it appear like it was an academic question to be defended.

(Applauses)

The Temporary Speaker (Hon. Abayo): Yes, Hon. Oriaro, the concerns are made; are you able to communicate with the Members?

Hon. Oriaro: Thank you, Chair, the Member say he is knowledgeable in statistics issues which is scientific. Anything to do with empirical is based on observations that are scientific and anchored on matters of statistics. I say that these water sources are known, they are observable and they are documented that is statistical such that if in Alego Usonga we can know they have this much, for instance that in Central Alego, we know that at Obambo there is a water point for community bow hole.

Just here at Palpal, there is Liganua bow hole and this are some of the things am talking about. So the deficiency in so far as grasping language should not be lyrical to one Mr. Amfry Kibet Mr, Temporary Speaker. So let me conclude without being distracted

(Loud consultations)

The Temporary Speaker (Hon. Abayo): Hon. Oriaro, be cautious and can you conclude your presentation!

Hon. Oriaro: I conclude Mr, Temporary Speaker, Sir, County outlook in this matter and fortunately we know Members. Let's consider areas they had visited, so Members of a Committee just sat and decided that let us go out because there is money and we have to spend it. In deed this Report when adopted to be displaced on the County Assembly website at a time when outsiders would want to place us in the societal gang as people who are not educated as to be dictating the terms of entry point into Assembly leadership.

It will be washing our dirty linens in public and I as Oriaro MCA for Central Alego would urge that this Report be withdrawn because it cannot be amended here so as to assist the Committee to do its work while consulting us.

Who are the neighbours who were consulted here? There are no indications that the community project management they met were true reflections of the issues they were undertaking on the ground, there ought to be minutes as well as names. It is so easy for anybody to write a Report that we met bla bla bla. I object in his support.

The Temporary Speaker (Hon. Abayo): Hon. Gare!

Hon. Gare: Mr. Temporary Speaker, Sir, first, I thank the Committee for bringing us the Report but I am also perturbed with this kind of Report. One is that the Report is saying that MCAs should set aside funds for the same, including me as Member serving West Sakwa while my Ward was not visited. How would I allocate funds for that? I want to request

that if the Committee is serious then let them go back and visit each and every Ward, or if not even telling us that how many community managed project are in this County or as well as sub counties and if they were twelve we only managed to visit this one's here which is not shown here. I want to say that ...

Hon. Ngure: Point of information!

The Temporary Speaker (Hon. Abayo): That's a point of information because if it were a point of Order I could have allowed you.

Hon. Gare: Am sorry I don't need the information now Mr. Temporary Speaker, Sir.

(Loud consultations)

The Temporary Speaker (Hon. Abayo): Order! Order! Hon. Members. It's a point of information and you are the mover, Hon. Pamela Ngure, I expected that you will be able to give your responses as you reply but if it's a point of information then go ahead although Hon. Gare is saying that he doesn't need it. Go ahead Hon. Ngure.

Hon. Gare: Information to who Mr. Temporary Speaker, Sir? Is it to you or me, because I don't need it?

The Temporary Speaker (Hon. Abayo): Get seated Hon. Gare the information is to the House not to you.

Hon. Ngure: Mr. Temporary Speaker, Sir, sorry I will first apologise for the texture of my spot today. The point of information I have is to the House because this is going on and on. I thought that with your guidance to inform the House that yes, these are the sample project visited because it is a point coming out all the time and again it is going to eat up time of debate when they need to know that these

are the sample projects visited and we have a list of other projects to be visited. If am in Order to state that now without waiting for the time when I will be replying ...

The Temporary Speaker (Hon. Abayo): Hon. Members, Hon. Ngure that point of information is may necessary. I agree that you are talking of sample but it is a sample of a given representation which the Hon. Member is saying you have not been explicit in explaining. If you would have said that we did pick on seven out of this number you would be making sense. I agree that that is a sample but it is a sample of a given representation but of what figure? I think that's what Hon. Gare is raising and it's a valid issue.

Hon. Gare: Thank you, Mr. Temporary Speaker, Sir, actually that's where I was and that's why I didn't need the point of information because if anything Bondo sub county has got how many Wards? Six! If you visited only one Ward out of six then what did you sample? You only visited one place in Yimbo then do you want to say that the same problem the people of Yimbo are facing are the same problems facing the people of Sakwa given that Bondo is both in Yimbo and Sakwa?

Therefore, it was not equal and if we want to do good to the community then the best thing we will do if we don't put this Report to question then we defer this Report so that the Committee goes back and bring us the right information that we need. That way I think we will do good to the Committee instead of putting it to question then later object it. So to me this Report is sub-standard because if anything the Committee is saying that we put up a policy so that if a contractor destroys any pipe he pays for it.

Who says that even now as we speak today that contractors are allowed to destroy pipes any how without a policy to pay? So I want to seek your guidance Mr. Temporary Speaker, Sir, that may this Committee go back and bring us the right Report with good representation covering Siaya County with the 30 Wards telling us how many community managed water projects are in Siaya County and we sampled this and this, thank you.

The Temporary Speaker (Hon. Abayo): Hon. Rosemary.

Hon. Rosemary: Thank you, Mr. Temporary Speaker, Sir. Mine will be very brief. As per what the Chief whip has said, let the Committee go back and identify what science in Siaya County. First and for most we have the WUAS that is the Water Users Association capturing the whole of Siaya County that ought to be involved when the Committee was going round.

I don't see these management committees of waters in County of Siaya being involved in this work and also the water sites which are very much identified here have not been indicated whether if they bow holes or dams. They have dwelt on piped water which has not been forth coming because the SIBO water supply depends on electricity which they have been to pay the bill.

So, I reject this Report that this Committee goes back and consults with the MCAs, the local users and the water management authorities. I rest my case.

The Temporary Deputy Speaker (Hon. Abayo): Hon. Booker Otieno!

Hon. Minami: Thank you, Mr. Temporary Deputy Speaker, Sir, for the opportunity to contribute. I must say that since I came to this House, this is the first time that I have seen a Report that doesn't have any substance!

(Applause)

A Committee went out on its own volition to go and visit water projects without an objective. I will read its objective, 'on 26th of October, 2015, the Committee of Water, Environment and Natural Resources held a meeting and resolved to visit community managed water projects which are not funded by the County Government to assess whether they are operational, identify whether they face challenges if any and project sustainability.

From the results of this visit only one objective was achieved, the one on challenges. Let us be fair to this Committee I think it is very important that we help each other. First, let us ask ourselves; before this Committee went out did they do what is called a baseline structure of a sample or research as Hon. Oriaro had put it. Did they visit offices in this County which I know have all the information of all the community based water projects before going out? If they had they could have annexed it.

Secondly, this Committee; if this is indeed what they decided to do without anybody prompting them to do it, they would have given us detailed information on each and every water project even for the 7 that they visited.

Hon. Rosemary has just told us that they did not meet the consumers of this water they were looking at. I think that what is important for this Committee is that before they go out they should know that in each and every Sub- County how many community based water projects do we have. Also before going out with the Committee to communities they should talk to various Sub – Counties, water

officers and NGO's that are operating these community based water projects.

Thirdly, the Committee would have told us the sustainability of these projects. If a water project can collect Kshs. 30,000 every month, electricity Kshs. 2,500 what about other running costs that the project incurs like the community Committee members allowances so that we can have a balance to know how much income is there verses the expenditure.

Hon. Ombee: Point of Order!

The Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. Ombee.

Hon. Ombee: I am the Vice Chair for Committee for Water, Environment and Natural Resources. My point of order is this, is it in order for the Committee Clerk to change the document which we were to discuss and was signed by the Vice Chair who chaired the meeting today and table the wrong Report which was signed by a Hon. Member who was not in the meeting today?

(Loud consultations)

I will not allow it!

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Ombee we have a Report before us. It is signed on the 3rd of March, 2016. Are we talking of two different documents?

Hon. Ombee: Mr. Temporary Deputy Speaker, Sir, I have the two Reports.

The Temporary Deputy Speaker

(Hon. Abayo): Could I have a look at the two Reports?

(Loud consultations)

(Hon. Ombee forwards Reports to the Temporary Deputy Speaker)

Hon. Minami: Mr. Temporary Deputy Speaker, Sir, I was on the Floor

and am wondering what that has to do with my contribution.

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Ombee is it in order? We have one Report in this House, and the Report that is with the Members is signed and dated 3rd March, 2016. Hon. Ombee has presented a Report signed on 1st March, 2016.

(Loud consultations)

Hon. Minami: Do I continue?

The Temporary Deputy Speaker

(Hon. Abayo): We have noted the concerns of Hon. Ombee and we are consulting with the same. Meanwhile Hon. Booker could you go on.

Hon. Minami: Thank you, Mr. Temporary Deputy Speaker, Sir, I think it would be fair to this House especially in view...

Hon. Andiego: Point of Order!

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Andiego, what is your point of order?

Hon. Andiego: Is it in order, now that we have identified that there are two different Reports. Which Report are we discussing now?

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Andiego, I have directed that I am going to respond to that and I have allowed Hon. Booker to continue.

Hon. Andiego: My concern is, which Report are we discussing?

The Temporary Deputy Speaker

(Hon. Abayo): We are talking about the Report that is before you so its validity is left for the Chair to decide.

Hon. Minami: As I was saying, that the validity of the Report that we are contributing on is in question. I think what is important is that because the Vice Chair

who is seated in this House has disowned a Report that is before this House, I think it will only be fair for that Committee to withdraw that Report and before withdrawing they should apologize to this House for misleading this House by presenting a false Report for debate. I rest my case.

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Members I have heard the contributions, the chair would like to state as follows. Substantively there was a Report that was signed on 1st March and the Chair is informed that today the same Committee met and went through the same Report and Hon. Ombee who is the Vice Chair was in attendance but what he has raised is that as the Vice Chair in attendance he did not sign the Report and without belaboring on this I think the spirit is clear that the Chair is contesting it has been signed on behalf of either the Chair or the Vice Chair.

I want to ask the Chair the document that we have signed on 3rd, or let me ask the Clerk's office or the members who attended this meeting, I want to know who signed the Report that we have in the Floor of the House.

Hon. Members: Hilda signed it.

The Temporary Deputy Speaker

(Hon. Abayo): So Hilda signed on behalf of the Committee?

Hon. Ngure: She signed on behalf of the Chair and she is a member of the Committee.

The Temporary Deputy Speaker

(Hon. Abayo): I want to ask Hon. Ombee, on behalf of the Committee, what do you have to say? Do you want to say that one member of your Committee signed this today having gone through your bit as a Committee and you were in attendance? What is your position? You can help this

House take direction on behalf of the Committee.

Hon. Ombee: Hon. Hilda was not in attendance for the today's meeting. I am the Vice Chair who chaired the meeting for today.

(Loud consultations)

I request the Members...

The Temporary Deputy Speaker

(Hon. Abayo): Order! Order! Hon.

Members, Hon. Ombee is on the Floor and may all of you take your seats! As the Vice Chair he is asking that this Report be withdrawn. Who is seconding that Hon. Ombee?

Hon. Ombee: Hon. Oriaro.

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Oriaro is not a member of that Committee. Hon. Munda are you a member of that Committee?

Hon. Munda: Yes I am a member but I was not in attendance. I second.

The Temporary Deputy Speaker

(Hon. Abayo): Okay that has been seconded. I want to ask the Mover, what is your submission?

Hon. Minami: I think the right procedure is that let us respect protocol. If the Vice Chair of a Committee has requested this House to withdraw a Report, the Mover was doing it either on behalf of the Chair or Vice Chair.

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Booker, you are out of Order! We respect that there is a Chair of that Committee but on the Floor of the House there was the Mover of the Motion and on behalf of the Committee the Mover will take responsibility as we talk on the Floor and that is why I have given her the chance. Hon. Pamela Nguni what do you have to say?

Hon. Nguni: Thank you, Mr.

Temporary Deputy Speaker, Sir, let me say for now that having listened to the various contributions, this matter has been burning inside me and I have to say that we need to withdraw this Report. We must!

I want to put certain records right because I had been asked to read the Report and I don't want it to go down as just having picked a Report and read it. We were in a meeting this morning although it is normal with Committee meetings that some people come in late while others leave early.

We have Hon. Ombee as the Vice Chair, Hon. Munda, Hon. Midumbi and Hon. Were as members, and then our clerk, Mr. Sumba was taking notes. It came to light that this Report needed to be fine-tuned so we went ahead and did it before we could bring it to the Floor of the House which we did and I think that is allowed. At the conclusion of the fine-tuning the Vice Chair had left having asked me to kindly read the Report.

What were we going to present to the House when even at our deliberations at the meeting we found out that there were certain facts which we needed to either leave out of the Report or include which we did and the Report was ready. When the Secretary went through rewriting the Report with adjustments, the member of the Committee that he could find available was Hon. Hilda Otieno and she signed on behalf of the Chairman and we brought the Report to the House.

Even as I apologize to the House, I think our Vice Chair has not conducted himself well because he has not carried us with honor.

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Nguni, I declare you out of Order! As the Mover requested and

has also been proposed and seconded, there is a feeling that this particular Report needs to be withdrawn. I wish to propose that this House resolves that the Report of the Committee on Water, Environment and Natural Resources on the Siaya County community managed water projects be withdrawn.

Yes, Hon. Gare!

Hon. Gare: Thank you, Mr. Temporary Deputy Speaker, Sir, it is true and actually that has been our plea as a House. What I want to request is that at times we don't need to wash our dirty linen before the Hon. Members as it is emerging now and I want to request the Committee as we withdraw the Report kindly go back, harmonize your issues in your Committees then come back with a clean Report touching on the concern of Members which we had told you earlier. Thank you.

The Temporary Deputy Speaker (Hon. Abayo): Yes, Hon. Walter Okello.

Hon. Okello: Thank you, Mr. Temporary Deputy Speaker, Sir, I support the withdrawal of this Report. I would like to encourage the Committee to respond to a few facts.

One, it is important to have an overview of a response from all the water stakeholders in this County.

Secondly, we all know that water is life so as we come back today we need to get a very clear picture on sustainability of the projects. They need to look at the way CDF money has been used on water projects. As we come back to the Report, it is also important to look at some of the projects that were handled by CDF and other public resources.

Finally, I believe we have a CIDP, I ask the members to give a picture to the community what they want with CIDP

especially in regards to water sector. What are we promising the people of Siaya County? that in the next 5 years or is it 10 or 20 years, everybody is going to have access to clean and safe water. These are guidelines that are important, if they come forward as a Committee to write a Report.

I want to say that what we have witnessed in this House today is a very dangerous precedence and you need to make a very firm ruling on it. Hon. Members have spent their afternoons 2-3 hours here waiting for this business and for them to just come and end in this manner, discourages Members. Some of us were meant to travel to Homabay for a burial but have sacrificed to be here. This is very embarrassing, Mr. Temporary Deputy Speaker, Sir, kindly make a firm ruling on this so that they also know the consequences for this kind of irresponsibility that we have witnessed in this House.

The Temporary Deputy Speaker (Hon. Abayo): Yes Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Temporary Deputy Speaker, Sir, I will support the withdrawal based on the fact that I am at pain to bite the bullet to support because if you sign a Report on behalf of somebody it has to be indicated. The Report itself is like Hilda is the Chair which is very dangerous and the Mover is still defending the Report. She ought to have understood the mood of the House and just agree with everybody.

While in a quest for writing a good Report they need, one, a clear point of departure into their words this time round clearly spelt out. Two, a Representative County outlook of their work must be seen. Three, the Report itself must be equipped with a sense of scientific words, genuine statistics, genuine observables and

lastly we would want them this time round to draw clear lines of methodical status.

(Laughter)

It is all this that will finally enable the County appreciate their work. Lastly, recommendations should be ones that would be easily picked for matters of implementation because the Report the way it is, I was wondering how the implementation Committee Chair was going to pick it up after the adoption. I support 'shingo upande'.

The Temporary Deputy Speaker
(Hon. Abayo): Yes Hon. Zilpah.

Hon. Omondi: Thank you, Mr. Temporary Deputy Speaker, Sir, I also support the withdrawal of this Report. On a lighter note if you check the records of Reports that have ever been presented by Water, Environment and Natural Resources Committee, this Committee has never presented any Report! I think it's lack of experience and I believe that they will learn from this experience that they need to do these things quite often so that they can be able to defend their Report.

They have never ever presented a Report just check your records. It is a learning experience and it has been a very bitter experience so maybe they need to go and sit down and look at other Reports that have been done in this Assembly so that they get a cue of what they should do otherwise I support the withdrawal.

The Temporary Deputy Speaker
(Hon. Abayo): Yes, Hon. Booker!

Hon. Minami: Thank you, Mr. Temporary Deputy Speaker, Sir, I support the Motion for the withdrawal of this Report. It is very important that before a Committee goes out especially when a decision of going out is its own, they should be having objectives. Let us not say

what Hon. Oriaro said, that the Committee looks at its budget allocation and sees that we have not gone out so can we go out. I think it is very important that we have value for money and a Report like this one should not even have stepped within the compound of this Assembly.

Two, after having the objectives they should know the stakeholders in that sector. Hon. Zilpah is saying that it is evident that this Committee might not be having experience in reporting their activities. We should now start seeing how to help them. I think that is where our Clerk comes into play. They should help these Committees to know what they are doing so that we don't waste tax payer's money moving out. I am just wondering if this benchmarking was done locally what about one that they have done outside the County recently what Report are we going to get.

(Loud Consultations)

Hon. Ombee: Point of information!

The Temporary Deputy Speaker
(Hon. Abayo): Yes, Hon. Ombee is on a point of information.

Hon. Ombee: Mr. Temporary Deputy Speaker, Sir, we have so many Reports but the problem is our clerk. If you can change the clerk and we get a new clerk, you will get those Reports in this Assembly.

(Laughter)

The Temporary Deputy Speaker
(Hon. Abayo): Hon. Ombee your point of information is in practice at the Floor of the House and that is not acceptable you can be able to handle that better at another level.

Hon. Ngure: Mr. Temporary Deputy Speaker, Sir...

The Temporary Deputy Speaker (Hon. Abayo): Hon. Pamela you are out of order take your seat.

Hon. Minami: Mr. Temporary Deputy Speaker, Sir, just allow me to finish. Thirdly, they should know under whose responsibility all this water they are talking about falls so that they go directly to these people.

Four, this Committee should also know the existing laws that are governing community managed water projects. They should know them at their fingertips so that when they doing their Report they should be quoting them.

(Applause)

Lastly, when they are doing their Reports they should give their recommendations based on what Hon. Walter has said that this County has a very good CIDP. Their recommendations should be based on existing budgetary allocations. I think if we do those kind of Reporting you will find that your Report will be making a lot of sense not only to the Members who are here but some else who can visit the website of the County Assembly. They will be able to understand that this Committee has given a Report or a recommendation that if implemented will be beneficial to the people of this County.

I support the withdrawal of this Report immediately. Thank you.

Hon. Ngure: Mr. Temporary Deputy Speaker, Sir, please spare us more butchering in this House. The Report has been withdrawn.

The Temporary Deputy Speaker (Hon. Abayo): Hon. Pamela, the Report has not been withdrawn, we are still debating you are out of order.

Yes, Hon. Osuri.

Hon. Osuri: Thank you, Mr. Temporary Deputy Speaker, Sir, I want to add that I support the withdrawal of this Report. However, if they are going back for these visits, in case they don't have the technical expertise let them involve the support of the technical officers in the field at the Sub Counties. They should also involve the communities where these projects are and if not let them buy or get the services of other Hon. Members who have got the knowledge of these areas to assist then in future so that they don't come back with another Report and then we reject, wasting our time. I support the withdrawal.

(Applause)

(Question to withdraw Motion put and agreed to)

The Temporary Deputy Speaker (Hon. Abayo): Hon. Members, the Chair would like to note that the Report is declared withdrawn! Hon. Members, allow me to say as somebody did mention that water is life and this House is talking about water. The flipside of it is that this County at the current state is experiencing Cholera outbreaks one of the reasons is the issue of water.

We want to ask the Committee to relook at this Report critically taking into account the issues that have been raised but also to remind various Committees that before they undertake any activity it is important to know what provoked that particular undertaking, what is the rationale? Why is the Committee undertaking that activity?

As Members have said, I would like the committee to note that you must also be able to position that activity within

the focus of this County as envisioned in the CIDP, the issue of representation it is critical as we take samples. It is obvious as Member have said that you should look at the statistics upon which you are able to take up a sample that will be representative enough taking in to account the geographical factors. I think that has been mentioned.

The issue to involve Water User Management Associations because these things do not exist in isolation is very critical that Members have mentioned you need to look at its sustainability component. This House will be looking at how the various community managed water projects are able to sustain themselves and the gaps that would arise then the County will say how they support. I think these are critical and valid issues.

I want to direct that this Report be brought back to this House within 2 weeks having taken into account that they might be going out then that going out needs to be structured within 2 weeks because these could be one of the problems that are leading to the Cholera outbreak.

This House needs to note that the numbers affected is increasing and it is spreading from one corner of the County to the other.

Very specific now to the committee, it is unfortunate what has been displayed on the Floor of this House and I want to ask the Office of the Clerk to be very vigilant and confirm that Reports are brought to this House procedurally to help us not get into the unfortunate situation that we have seen today. We will not accept or tolerate any such undertakings but we want to ask that we exhibit due diligence in our operations in this House.

ADJOURNMENT

Having exhausted the agenda of this House today, this House stands adjourned until next week Tuesday, 8th March, 2016 at 2.30 p.m.

The House rose at 4.14 p.m.

TUESDAY, 8TH MARCH, 2016

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

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

PRAYER**COMMUNICATION FROM THE CHAIR**

1. MOTHER'S DAY
2. PUBLIC PARTICIPATION
3. ROYAL MEDIA – EACC OFFICIAL IN SIAYA

Hon. Speaker: Hon. Members, I have the following communications to make:

1. We take this opportunity today to congratulate women in this House being gracious as they are for today is Mother's Day.

(Applause)

We thank you, very sincerely because no. 1, you make this House be constitutionally well constituted. Without the women, we would not have this House running.

(Applause)

We also congratulate you, not just being mothers but also being mothers who have known how to coexist with men.

(Laughter)

Thank you so much. Even Hon. Elisha is nodding, meaning it is true!

(Laughter)

2. Last week the Deputy Speaker and I went to radio Mayienga to put matters straight on issues of Public Participation. There is a thinking out there which is not the truth, that this House has not been doing Public Participation and we shared with those who cared to listen that we have been doing Public Participation, we have never broken any law and we have never violated any procedures. Just to advise, our Committees which are going out there, make sure that you have as much evidence as possible to demonstrate that we provided forum and that the people who came contributed. Because it will come a time when some people will want to rush to court to nullify on what we have been doing and that will be our shield that indeed we provided a forum and people came while we were there.
3. Allow me to share with you that Hon. Shaban who lost his wife has a function today starting at 4p.m. Those of us, who will be free during that time, feel free to join in the fundraiser.
4. Last week Friday, Royal Media; Citizen TV reported in their news bulletin of 1.00 p.m. that EACC officials had come

to Siaya. The pictures they showed were clips for the Assembly. So many people thought that it is the Assembly which was a suspect of economic crimes. We are consulting; we want to write to Royal Media so that they do a rejoinder or apologize for that mix up. Otherwise, thank you.

MESSAGES

APPROVAL OF COUNTY POLICING AUTHORITY APPOINTEES

Hon. Speaker: Hon. Members, I have a message for you from His Excellency the Governor and it reads; The Approval of County Policing Authorities Appointees. Reference has been made to National Police Service Act 2011, Section 41(1, 2, 3 and 4) all explaining how the Policing Authority should be operationalized. The vetting has been done by the County Security Intelligence Committee.

It is in this regard that I request you to approve the attached list of members who were interviewed by the Public Service Board and nominated for the said purpose vide Section (3) Sub-Section (e).

The names are there;

1. William O. Wayodi
- Alego
Usonga
2. Martime A. Obiero
- Gem
3. John Owuor Owang
- Ugenya
4. Jenipher A. Ogodo
- Bondo
5. Emmanuel Amata
- Rarienda

6. Julius Moses Omondi
Odhiambo -
Ugunja

I want to refer you to the Act. The National Police Service Act 2011(41); There shall be established a County Policing Authority in respect of each County which shall comprise;

- a) The Governor or a Member of the County Executive Committee appointed by the Governor, who shall be the Chairman
- b) County representatives appointed by the Inspector General who shall comprise the heads of National Police Service, National Intelligence Service and Director of Criminal Investigations at the County level.
- c) Two elected Members appointed by the County Assembly. Here, you remember, we delegated this to two Committees that are concerned with issues of discipline and the Powers of Privileges Committee nominated the Deputy Speaker and also the Committee on Governance, I think they nominated the Chair.
- d) The Chairperson of the County Security Committee
- e) At least six other members appointed by the Governor from among the following categories of persons ordinarily resident in the County, business sector, community based organizations, Women, Persons with special needs, religious organizations and youth.

The members referred to sub section 1(e) shall be recruited through competitive process by the office employing public

officers in the County. (3), the names of members nominated by section 1(e) shall be forwarded to the County Security Committee for vetting and subsequent thereto the County Assembly for approval. That is where we come in, the County Assembly for approval.

I therefore commit this to the Committee on Governance. We look at our Public Approval Act, the Parliamentary Approval Act, indicates that within 14 days of receiving this you need to have vetted these people. Next order!

PETITIONS

Hon. Speaker: Hon. Members, a matter has arisen about a Petition which had been presented here and it was ready for debate but it was not concluded. I also reckon that sometime back I referred us to Standing Orders which prohibit debate on Motions. However, we don't want to be retrospective in our application of the Standing Orders, so therefore we want to urge the person who is moving this, I think it was Hon. Apiyo to make sure that this report /Motion is debated latest Tuesday next week so that we dispense with it and we start dealing with Petitions the way it is prescribed in the Standing Orders. That should be taken seriously because people will think that we don't know what we are doing.

I have just been reminded by the Chairman of Welfare Committee that there will be an informal meeting as soon as we finish with the Business of the Day to share more on Welfare issues, specifically about our colleague who has been bereaved, Hon. Shaban Omar. Next order!

PAPERS

SIAYA COUNTY ANNUAL DEVELOPMENT PLAN FOR THE FY 2016/2017

Hon. Odinga: Thank you, Mr. Speaker, Sir. I wish to lay on the Table of this House, the Committee report on Budget, Appropriation and Vision 2030 of the Siaya County Annual Development Plan for the FY 2016/2017 for consideration and adoption.

Hon. Speaker: Next order!

NOTICES OF MOTION SIAYA COUNTY ANNUAL DEVELOPMENT PLAN FOR THE FY 2016/2017

Hon. Odinga: Mr. Speaker, Sir, I wish to give Notice of Motion that this House approves the report of the Committee on Budget and Appropriations, on the Siaya County Annual Development Plan for the FY 2016/2017 laid on the Table of the House today Tuesday 8th March, 2016.

Hon. Speaker: Next order!

MOTION SIAYA COUNTY ANNUAL DEVELOPMENT PLAN FOR THE FY 2016/2017

Hon. Odinga: Thank you, once again Mr. Speaker, Sir. As I had given a Notice earlier, I wish to move that this House approves the report of the Committee on Budget and Appropriations on the Siaya County Annual Development Plan for the FY 2016/2017 laid on the Table of the House today Tuesday 8th March, 2016. I call upon Hon. Abayo to second.

Hon. Speaker: You should have just moved then it be seconded later!

Hon. Odinga: Thank you, Mr. Speaker, Sir. As we are aware that we have already started the process of deliberation of 2016/2017 FY Budget and among those important documents that constitute development of this important document, is the Annual Development Plan. We received this report early last year and we brought a report by 10th of November, 2015, asking this House to return the ADP to the Executive so that we can make a document which meets the threshold.

The report on the Annual Development Plan 2016/2017 has been informed by the revised Siaya County Annual Development Plan, 2016/2017 which has been made in line with the provisions of Section 126 (1) of the Public Finance Management (PFM) Act, 2012, and Article 220 (2) of the Constitution of Kenya, 2010 which provides what should be incorporated therein.

Section 126 (3) of the PFM Act, 2012 provides that the County Executive Committee member responsible for Planning shall,

(Hon. Owii, on his feet)

Hon. Speaker: Yes!

Hon. Owii: Thank you, very much Mr. Speaker, Sir. This is a very important document for this House,

Hon. Speaker: Is your microphone on?

Hon. Owii: My microphone is failing me, Mr. Speaker, Sir.

Hon. Okello: Then move to the next one!

(Hon. Owii switched microphones)

Hon. Owii: Mr. Speaker, Sir, I was trying to put a request in form of a point of order that this being a very important document for the people of Siaya in terms of development, I think we need ample time to run through such a serious document then subject ourselves to discussion over it at an appropriate time.

So, I wanted to propose that the Mover moves it, but for the purposes of discussion, we should only do so after perusing through the Report. That can be done tomorrow, God willing. Thank you, Mr. Speaker, Sir. I want to call upon Hon. Booker to second.

(Laughter)

(Hon. Muhulah stood up in his place)

Hon. Speaker: Yes, Hon. Muhulah!

Hon. Muhulah: I think what we need to be very cognizant of is that not every document in this House is foreign. The Report that we are discussing today follows the Annual Development Plan that had been submitted by the Executive and Hon. Members have seen it. What we are trying to do by this Report is only to simplify it, but otherwise, the House had received the main document. So, this is not a foreign document!

(Loud consultations)

Hon. Owii: Mr. Speaker, Sir---

Hon. Speaker: Order, Hon. K'owii! Take your seat!

Hon. Muhulah: Mr. Speaker, Sir, I don't think the Hon. Deputy Majority Leader will be very right to say that he never gotten time to see this document.

Hon. Speaker: The Hon. Deputy Majority Leader is referring to your Report; not the Annual Development Plan.

Hon. Members: Yes! Exactly!
(Applause)

Hon. Speaker: Hon. Members, the Motion reads; THAT, this House approves the Report of the Committee on Budget and Appropriations---

(Hon. Adera stood up in his place)

Hon. Members: Yes! The Report!

Hon. Speaker: Yes, Hon. Deputy Speaker, what is it?

Hon. Adera: Mr. Speaker, you have already talked of what I wanted to say, but I just wanted to add that the Mover had indicated that there is a document that was brought here earlier but was returned and they have come back with another document. So, the Committee looked at their document and the House has not verified whether it is the same document we are talking about. So, I am in support of the proposal that we be given ample time to have a look at the document.

(Applause)

(Loud consultations)

Hon. Speaker: Order! Order! Hon. Elisha has come back with some energy from Tana River!

(Laughter)

(Applause)

(Loud consultations)

Order! Order! Hon. Chairman, what do you have to say about the foreign status of your Report?

Hon. Odinga: Mr. Speaker, Sir, I want to confirm to you that as a Committee, there is no single day we will ever bring a foreign document on the Floor of this House. The ADP was laid and committed to the Budget and Appropriations Committee which looked at it and said it did not meet the threshold of what we expected of that Report. So, this House agreed with us that we send back the Report to the Executive for corrections then later on bring a Report on the changes. That is what we are doing today, Mr. Speaker, Sir. The initial document did not meet the threshold, but what we have now meets the threshold.

It is true that Hon. Members may be seeing this Report for the first time, but the ADP itself and the earlier Report was adopted by this House on 10th of November, 2015.

Hon. Speaker: Ok. Hon. Members, I will give guidance here. I will go by the Motion which is before the House and it says; THAT, this House approves the Report of the Committee on Budget and Appropriations on the Siaya County Annual Development Plan for the FY2016/2017 laid on the Table of the House today, Tuesday, 8th March, 2016. So, the Members are right to say this Report has just come now because it has been laid today. The practice of Parliament is that once it has been laid, it becomes a document of the House. So, it is at this juncture that it is a document of the House. You can only plead with the House to allow you to move then we debate as Hon. K'owii has said. Otherwise, we can as well say that we need time to go through this Report.

Hon. K'owii had suggested that you move the Motion, it be seconded and then we debate on it tomorrow. If that

proposal has no objection, then we will allow you to proceed; but if somebody again thinks that we should let you go all together, then I will put it to vote.

Seemingly, there is no objection meaning you will be allowed to move your Motion, ask somebody to second it, then tomorrow we will resume debate.

Hon. Odinga: Thank you, Mr. Speaker, Sir. I will go with your ruling. I was going through the preface and was in the second paragraph.

Section 126 (3) of the PFM Act, 2012 provides that the County Executive Committee member responsible for Planning shall, not later than the 1st September in each year, submit the development plan to the County Assembly for its approval, and send a copy to the Commission on Revenue Allocation and the National Treasury.

The Annual Development Plan (ADP) is a plan drawn from the County Integrated development plan (CIDP) and focuses on the issues of development projects in the County. It is indicative on the development priorities of the County as enshrined in the master plan (the CIDP) which will inform the budget for the subsequent financial year.

The ADP translates to the County Fiscal Strategy Paper for the subsequent financial year; in this case the financial year 2016/2017 in terms of development priorities and therefore is intended to inform the subsequent budget hence being a crucial document in the budget process.

The County ADP should be a milestone that seeks to highlight County development priorities, which eventually spurs economic growth in the County. It should stress on prudent fiscal policy to reinforce County Government's commitment to responsible financial

management practices. The PFM Act, 2012 sets a minimum of 30% of total expenditure of budget which should be set aside for development expenditure in the medium term. It is expected that once the development priorities are spelt out in the ADP 2016/2017, this will enable the County meet the threshold of the development expenditure for financial year 2016/2017 as stipulated in the PFM Act, 2012.

In the wake of the soaring wage bill and various economic challenges within the County, there is need to observe strict fiscal discipline while giving close attention to areas that will spur economic growth of the County. Key focus should be put on County priority plans and programs to ensure improved service delivery and prompt implementation of budgeted for activities. Arising from limitation of resources and at the same time competition for scarce resources between a number of priority programmes, developing a list of priority programmes and projects is essentially important to ensure that those programmes are appropriately implemented.

In this spirit of ensuring that all the above matters are actually achieved and observed within the revised Siaya County ADP 2016/2017, the Committee ventilated through the proposals and from which observations were deduced and recommendations drawn.

The Budget, Appropriations and Finance Committee has therefore examined and discussed the Siaya County Annual Development Plan, 2016/2017 and has made recommendations as contained in this report.

COMMITTEE MANDATE

Mr. Speaker, Sir, the Committee on Budget, Appropriations and Finance was

established under Standing Order No. 187 and is mandated to do the following;

- 6) Investigate, inquire into and report on all matters related to coordination, control and monitoring of the of the county budget,
- 7) Discuss and review the estimates and make recommendations to the County Assembly;
- 8) Examine the County Fiscal Strategy Paper, as presented to the County Assembly;
- 9) Examine Bills related to the budget, including Appropriations Bills; and
- 10) Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.

COMMITTEE MEMBERSHIP

Mr. Speaker, Sir, the Committee on Budget, Appropriations and Finance, as was constituted by this Assembly comprises of the following members;

Name of Member	Position
10. Hon. Jack Odinga, MCA	- Chairperson
11. Hon. Peter Muhulah, MCA	- Vice Chairperson
12. Hon. Joseph K'awuor, MCA	- Member
13. Hon. James Obiero Otare, MCA	- Member
14. Hon. Nicholas Ochieng Aneme, MCA	- Member
15. Hon. William Owiti Angul, MCA	- Member
16. Hon. Sylvester Madialo, MCA	- Member
17. Hon. Margaret Oketch, MCA	- Member

18. Hon. Jared Abayo, MCA
- Member

COMMITTEE MEETINGS

Mr. Speaker, Sir, in reviewing this Siaya County Annual Development Plan, 2016/2017 so as to adequately satisfy and inform itself that it has observed the County development agenda for prosperity and posterity, as highlighted by the County Executive Committee Member for Finance and Economic Planning in the revised Siaya County Annual Development Plan 2016/2017 and ensuring that it is in line with the Constitution and relevant Acts, the Committee held several meetings to consider the proposals. This revised ADP 2016/2017 was submitted to the County Assembly on 7/1/2016 and subsequently laid and committed to this Committee on 10/2/2016 for consideration and subsequent reporting back to the Assembly.

During its sittings to consider this revised ADP, the Committee considered various documents, key among them, the Constitution of Kenya, 2010, the PFM Act, 2012, the County Government Act, 2012, the Siaya County Integrated Development Plan, 2013 – 2017, the Siaya County Budget Review and Outlook Paper, 2014/2015, the Siaya County Annual Development Plan, 2015/2016 and the revised Siaya County Annual Development Plan, 2016/2017. These documents helped inform the Committee in making key observations and consequently recommendations.

ACKNOWLEDGEMENTS

Mr. Speaker, Sir, first and foremost, on behalf of this Committee I wish to express our gratitude to the offices of Siaya County Assembly Speaker and

the Siaya County Assembly Clerk for the support received as it discharged its mandate of examining the Siaya County Annual Development Plan, 2016/2017.

This Committee similarly extends its gratitude to the Finance Department of the Executive arm of the County Government for the role they played in ensuring successful writing of this Committee Report.

Further, I wish to express my appreciation to the Honorable members of the committee who traded off their time to participate in the activities of the Committee and whose dedication and fortitude saw the completion of this report.

Special appreciation also goes to the Secretariat to the Committee who, on several occasions, had to go beyond the normal call of duty. The commitment and devotion to duty of all those involved in this noble task made the work of the Committee and production of this report a success.

Finally, Mr. Speaker, the Committee extends its appreciation to the citizens of Siaya County for their patriotism and input in development programmes and prioritization which has really helped enhance the need identification for the County.

Mr. Speaker, Sir, it is therefore my pleasant duty and privilege, on behalf of the Budget, Appropriations and Finance Committee, to table this report and recommend it to the Assembly for adoption. Attached is the Committee Report on the original Annual Development Plan, a report adopted by this Committee in October, 2015.

KEY FINDINGS AND OBSERVATIONS FROM THE SIAYA

COUNTY ANNUAL DEVELOPMENT PLAN, 2016/2017

During its sittings to consider the revised Siaya County ADP, 2016/2017, the Committee made the following findings and observations;

1. That the document does not clearly indicate how the County Government has responded to both the internal and external changes to the initial plans, i.e. the factors that may have affected the implementation of the budget.
2. That the general legal requirement as provided for under Section 126 (1) of the Public Finance Management (PFM) Act, 2012, and Article 220 (2) of the Constitution of Kenya, 2010 was met in the preparation of this Siaya County ADP, 2016/2017.
3. That this plan does not adequately address equity in the County. There is a skewed distribution of major projects and programmes among the six Sub-Counties.
4. That the ADP 2016/2017 has a total cost of programmes at over Kshs 7 billion. This is despite the fact that some recurrent programmes like compensation to employees and Operations and Maintenance are not captured. However, considering the revenue inflow into the County Government both locally and from the National Government, the County may hardly get Ksh 6 billion as its revenue in the financial year 2016/2017.
5. That the County Government plans to spend Ksh 250 million to tarmac as a flagship project, the Ungas-Sigomre-Ugunja-Ukwala-

Rwambwa Road estimated to be 20 km in length. The Committee notes that tarmacking of this road is a National Government function. Further, this road seems longer than the recorded 20km hence its actual length should be confirmed.

6. That in its plan, the County Government intends to establish child protection and gender rescue centres within the County. However, the Committee notes that these are National Government functions. Furthermore, there is no children protection institution within the County hence construction of a dormitory may not be of importance as at now. Therefore, gender rescue and child protection may not be a priority in the County.
7. That contrary to the previous several recommendations by this Committee that no fund should be programmed for before a legislative tool is in place for the implementation of such funds, the County Government has planned for several funds without legislation in place. These include the funds for the social services sector, the agricultural sector, the County Cooperative Revolving Fund (Trade Sector), Mechanical Transport Fund (Roads sector). Mr. Speaker, Sir, most of these proposals are coming for funding but there are no legislations put in place to take care of those activities.
8. That the County Government has planned to spend Kshs 6 million to establish observation network and downscaling of seasonal, monthly

and weekly weather forecast under the meteorological services despite the fact that this function was not devolved to the counties.

9. That the County Government plans to spend Kshs 5 million on irrigation. This amount is unrealistically low hence may not achieve its objective.
10. That the County Government intends to rehabilitate the cotton ginnery at Ndere. However, there is no provision, in the plan, for the promotion of cotton farming before the factory is revived. Further, the County Government has not put in place any plan to provide for the end market after the ginnery – which is just for storage purposes. Also to note is that the ownership of Ndere ginnery should be established first.
11. That the County Government intends to spend Kshs 10 million, Kshs 50 million and Kshs 140 million on the construction of roads (opening, grading and murraming), construction of bridges and maintenance of roads and bridges respectively. However, there are no further details regarding the names and location of the roads and the bridges. This makes it difficult to determine a fair distribution of such projects across the County.
12. The County Government has set aside Kshs 10 million for rain harvesting in public schools complete with gutters. It should be noted that public schools fall under the National Government.

Mr. Speaker, Sir, during Committee sittings to consider the Siaya

County ADP, 2016/2017, there were some areas and programmes not captured. This was either in terms of their cost allocation or inadequate information regarding the proposed programmes. To be able to effectively incorporate these projects into the County's budget, more information would be needed to justify their allocations. Such programmes included the following;

1. The County Government intends to spend Kshs. 12 million to purchase 6 stand-by generators in the health sector. However, there were no details as how the generators shall be distributed within the County.
2. Regarding the infrastructural development in the health sector, Ksh. 8 million has been set aside for the construction of two in-patient wards at Uyaw Health Centre (male and female). However, there was no clarification on the capacity of the intended ward which would guide the cost allocation. The County Government is also intending to budget with Kshs 35 million for the construction of a children's ward, a functional outpatient unit, a maternity and a theatre at Urenga Health Centre. The Committee however, learnt that there is already an outpatient unit put up by the Ugenya Constituency Development Fund (CDF) at Urenga Health Centre hence more details are needed as to verify the information.
3. There is a plan to spend Kshs 150 million to construct one water flagship project within the County. However, there were no further details as regards this project; the

location of the project, the total cost of the project among others.

4. The County Government has also planned to spend Kshs 35 million on solid waste management but without details on how this will be implemented as well as the locations of the project. There were also inadequate clarifications on the locations of the shallow wells, dams and pans in which the County Government has set aside Ksh 17 million for their construction and rehabilitation. The Committee also questioned the wisdom of putting up of water pans in the current world.
5. The County Government intends to spend Kshs 3 million for restocking of Lake Kanyaboli and 6 other dams with fingerlings. These dams were however not specified.
6. There are plans to develop the infrastructure of selected markets within the County. These markets should be specified in addition to the activities that will be done in each market.
7. The County Government has set aside Kshs 6 million to purchase dairy processing equipment for Mur Malanga and Ladco societies. However, it was not clarified as to whether the equipment will be purchased for individuals or they will remain County Government assets.

COMMITTEE RECOMMENDATIONS

Mr. Speaker, Sir, the Budget, Appropriations and Finance Committee having examined and discussed the Siaya County Annual Development Plan, 2016,

wishes to make the following recommendations;

1. In the subsequent county annual plans, the County Government should strive to clearly indicate how the County Government responds to both internal and external changes to the initial plans. These should include the factors that affect the implementation of the budget and the County's response thereto.
2. In planning for the annual development, the County Government should always ensure equity across the County. This should be given consideration in the preparation of the County Fiscal Strategy Paper, 2016 and the County Medium Expenditure Framework, 2016/2017.
3. While developing a plan for the County, there should be a consideration for the projected County revenue. The County must therefore plan for its priorities within the resource envelop. This will ensure seamless implementation of the programmes.
4. The County Government has set aside Kshs 5 million for promotion of research in and utilization of appropriate building material and technologies (ABMT). However, the Committee recommends that this may not be a priority for the County hence should be considered for shelving. The Committee is also biased in favor of a Public-Private Partnership plan for the implementation of the projects.
5. That Kshs 10 million has been set aside for the construction of ECD Resource complex. The Committee however recommends that this is not a priority for the County hence should be considered with a view for dropping from the budget.
6. The County Government has set aside Kshs 42 million for ICT mainstreaming and infrastructural development of the selected public polytechnics. This Committee however felt that no specifications were given on the polytechnics intended to benefit hence recommends that more details should be provided during budgeting regarding the locations of the expected polytechnics targeted. The County Government should also establish the specific polytechnics in the county that have got boarding programs as well as data on the number of polytechnics constructed since 2013/2014 and which would need improvement. This would help justify the allocation for the polytechnics. The CECM for Education should prepare and submit before the County Assembly, for information, a policy to set up a County Polytechnic.
7. The County Government should only spend its resources in implementing projects within its functions. With this, no fund should be spent on the national functions. Therefore, Ungas-Sigomre-Ugunja-Ukwala-Rwambwa road; child protection; gender rescue center; meteorological services; water harvesting in public schools; weighbridge among other projects

which should be done by the National Government should not form part of the County plans. However, the Committee appreciates the importance of the above mentioned tarmac road and is of the view that if tarmacking of this road could be implemented through a partnership between the County Government of Siaya and the National Government, then it would approve allocation of resources towards the same.

8. Like it had recommended before, this Committee maintains that no fund should be programmed for before a legislative tool is in place for the implementation of such funds.
9. The County Government should consider increasing the allocation for the implementation of the irrigation programme. However, this Assembly should only approve such allocation once the County Agriculture Sector has fully accounted for the earlier allocated funds to this programme. Further, there should be a report on how successful the irrigation project has been and the value it has added to the County.
10. To ensure prudence and economic viability in the public investment within the County, the County Government, under the Trade sector, should submit to this Assembly, a comprehensive policy on the revival of the industries within the County or the initiation of new ones.
11. The County has set aside Kshs 10 million for the establishment of citizen service centres in 2 sub-counties. However, as provided for under Section 119 of the County Government Act, 2012, this should be established to all the devolved units including the ward level. In the meantime, the Committee recommends that the ward offices should be given priority so as to take care of the service centres in the interim. On a similar note, the cost of ward offices should be enhanced taking into consideration the actual cost of construction.
12. On the Spatial Plan, given that this project is a Private-Public Partnership (PPP), the total cost of the project should be disclosed as well as the concept paper on the implementation of the plan. The expenditure of the Kshs 41 million earlier allocated for this activity should also be reported.
13. The Kshs. 2.7 billion for construction of housing unit for civil servants is not a priority for the county. The Committee recommends that this should be a Public-Private Partnership project.
14. The road networks have not been established in the major towns therefore construction of parking bays may not work well for now. The County Government should also consider Usenge, Bondo, Akala, Sega, Ugunja and Yala for bus parks.
15. The County Government should consider the sub county headquarters of Gem and Rarieda and the planning units should be included in the headquarters. Completion of Ugunja Town Hall should also be given priority.

16. There is already Ksh 92 million for refurbishment of Siaya County Referral Hospital (SCRH) therefore there is no need for additional allocation. Further, there is need for clarification on the total cost needed for completion of the renovation.
17. Folklore is not a priority. If necessary, then it should form part of culture promotion. Further, the museum and talent center must not necessarily be in Siaya town.
18. In the livestock sector, the proposal on 90 cows and 30 chaff cutters seems to be inadequate for the County. As a precursor to making a decision on this, the Committee recommends that the number of cows and chaff cutters should be enhanced.
19. Under crop husbandry, it was observed that the distribution of seeds in the previous years has been a challenge and the Committee recommends improvement of the mechanisms of the distribution of fertilizers and seeds.
20. Under the fisheries sector, this Committee was not in agreement that fishing gears be purchased for any group. Instead, the County Government should encourage the formation of organized groups in a bid to effectively manage the sector. Such organized groups will grant the fisher folks a pricing bargaining power and also enable them have a good marketing forum.
21. Last but not least, the Committee addressed its mind to the issue of solar lights; it is the Committee's considered opinion that a list of all

the markets targeted for solar lights and the number of lights per market be availed. At the same time, there is need for a relook into the solar light project in view of the intended National Government lighting programme in the urban centres.

CONCLUSION

Mr. Speaker Sir, the Committee therefore requests this Assembly to adopt this report and further resolve that the proposed recommendations as contained in this report on the Siaya County Annual Development Plan, 2016/2017 be adopted.

I call upon Hon. William Angul to second.

Hon. Angul: Mr. Speaker, Sir, I stand to second.

Hon. Speaker: Hon. Members, with the leave of the House we had agreed that the Mover moves the Motion, it be seconded, but there will be no debate on it until tomorrow.

(Question proposed)

(Debate deferred)

COMMUNICATIONS FROM THE CHAIR

WELFARE OF BEREAVED COLLEAGUE

MEETING WITH THE BUDGET AND APPROPRIATIONS COMMITTEE

As we do that, I wish to make the following Communication:

1. Hon. Members, I have been reminded by the Chair of the Welfare Committee that you don't leave—it is urgent and important that you remain

behind and talk about the welfare of our bereaved colleague.

2. After this, we need to have a meeting with the Budget and Appropriations Committee on matters that we discussed outside this Plenary on variations in the Supplementary Budget and also the fate of the Ward Development Fund Bill. As soon as we finish and the Welfare Committee is done with their meeting, I will need to meet you so that we agree on the way forward on those two issues.

ADJOURNMENT

Hon. Speaker: Hon. Members, will you be upstanding for adjournment.

(All Hon. Members stood up in their places)

There being no other business, this House adjourns until tomorrow, Wednesday, 9th March, 2016 at 9.00 a.m. in the Chambers.

The House rose at 3.30 p.m.

WEDNESDAY, 9TH MARCH, 2016

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

[Temporary Deputy Speaker (Hon. Abayo) in the Chair]

PRAYER**The Temporary Deputy Speaker:**

Hon. Members, we have no quorum and I want to ask the Serjeant-at-Arms to ring the bell for the next 10 minutes. The Chair is informed that there is Governance and Administration meeting going on, the Chair is not aware of that meeting and the Members need to be invited back to the Assembly

(The bell was rung for 10 minutes)

The Temporary Deputy Speaker:

Serjeant-at-Arms, could you ring the bell for another 5 minutes!

(The bell was rung for another 5 minutes)

(Quorum confirmed)

COMMUNICATION FROM THE CHAIR**PUBLIC PARTICIPATION**

The Temporary Deputy Speaker: Hon. Members, you are aware that two Committees will be going out for public participation, that is the Committee on Trade will be handling the Alcoholic Bill and the Education Committee will be handling the Pre-primary Education Bill in various places and we want to wish them well. Next order!

PAPERS**THE BUDGET REVIEW REPORT****The Temporary Deputy Speaker:**

Yes, Hon. Jack Odinga!

Hon. Odinga: Thank you, Mr. Speaker, Sir. I wish to lay on the Table of this House the Siaya County Budget Review Report for first quarter ending 30th September, 2015 for consideration and adoption.

NOTICE OF MOTION**THE BUDGET REVIEW REPORT**

The Temporary Deputy Speaker: Yes, again Hon. Jack Odinga!

Hon. Odinga: Mr. Speaker, Sir, once again I beg to move that this House approves the report of the Committee on Budget and Appropriations on the Siaya County Budget Review Report for the First Quarter ending 30th September 2015 laid on the Table of the House today Wednesday 9th March 2016 and I am requesting Hon. Muhulah to second.

The Temporary Deputy Speaker:

Hon. Muhulah!

(Hon. Muhulah seconded the Motion)

The Temporary Deputy Speaker:

Next order!

MOTION**THE ANNUAL DEVELOPMENT PLAN**

(Continuation of debate interrupted on Tuesday, 8th March, 2016)

The Temporary Deputy Speaker:

This is a Motion that was moved yesterday, Hon. Members, and the discussion of it will continue today, so I hope you will make contributions on this Motion. Yes, Hon. Oriaro!

Hon. Oriaro: Thank you, Hon. Chair. Mr. Speaker, I first want to thank the Committee on Budget for having brought to us a very eloquent report touching on 12 observations and interestingly giving 21 recommendations. It is a report, this report is a logical consequence of tooth picking of the

Annual Development Plan that was brought to this House sometime back and what the Committee has done is a great warning to us as Members because it is the ADP that shall inform the nature of allocation in the 2016/17 financial year.

The Temporary Deputy Speaker:
Hon. Walter, what is it?

Hon. Okello: Mr. Speaker, may I seek your guidance as you can clearly see a lot of Members ---towards the Communication you made earlier on the kind of engagement that is there with Committees today and the debate before us is very important just as Hon. Oriaro has outlined it. I think with your direction if it were possible to suspend the discussion until the Membership is properly constituted.

The Temporary Deputy Speaker:
Hon. Walter, this discussion will go on because we suspended it yesterday and we will continue today. Hon. Oriaro!

Hon. Oriaro: Thank you, Chair. We have always observed that planning to wrongly allocate is naturally planning to wrongly spend and this is what touches my heart on the report as I observe that it is an eye opener, the Committee has done a wonderful work. I wanted to make the following remarks going by observations. The issue of tarmacking of roads, the observation here is very clear, and at times we have always questioned the nature of inter relatedness of Siaya County and National Government, everybody knows...

The Temporary Deputy Speaker:
Hon. Oriaro, as you make your submissions, would you also allow the House to flow with you by a mentioning a specific recommendation or observation that ---

Hon. Oriaro: That is it, Mr. Speaker.

The Temporary Deputy Speaker:
on the copy of the document

Hon. Oriaro: And that is what I am talking about Mr. Speaker, Sir. The Ugunja

The Temporary Deputy Speaker:
Which number of observation?

Hon. Oriaro: That is number five, the tarmacking of roads, everybody knows and you have heard from Ugunja Member of Parliament, Hon. --- and Hon. Ochieng, of the plan to tarmac the Ugunja, Ukwala - --road by the National Government and when we see

Hon. Awour: Mr. Speaker!

The Temporary Deputy Speaker:
Yes, Hon. K'awour!

Hon. Awuor: Are we being informed that the MP for Ugunja is Hon. David Ochieng?

The Temporary Deputy Speaker:
Hon. Oriaro, this is a House of rules, could you be able to be very explicit, the House may not know the --- we better know, whom are we talking about!

Hon. Oriaro: Let me be specific; the ---Ukwala, Ugunja road criss-crosses two constituencies of Ugunja led by Hon. Opiyo Wandai and Hon. Ochieng. We know that National Government is already out to tarmac this road, my worry is, was the Executive not aware of this? And is being done in their own County!

Hon. Muhulah: Point of information, Mr. Speaker.

The Temporary Deputy Speaker:
Yes, Hon. Muhulah!

Hon. Muhulah: Mr. Speaker, I wish to give more information to the Hon. Member for Central that my Committee doing that observation and comment, we had already dug in and established that the National Government withdrew the sponsorship of tarmacking of that road,

that is the reason why the Committee actually went to that position that the road will not be done as at now by the National Government. Thank you, Mr. Speaker.

Hon. Oriaro: Mr. Speaker, Sir, I would allow colleague Members to initially drag the budgetary of my contributions.

The Temporary Deputy Speaker: The Chair would want to mention that the point of information raised by Hon. Muhulah is not informing this particular observation and therefore Hon. Oriaro should continue with his discussion.

Hon. Oriaro: Thank you, for protecting me.

The Temporary Deputy Speaker: because his statement is therefore contradicting the spirit of the statement in the report.

Hon. Oriaro: Thank you, Mr. Speaker. I am worried of that, they also plan to spend, that is point number six, observation number six, on the issue of child care, child protection at --- to that level as explained here, the magnitude of it we know, that is a National Government function.

Fortunately for us in Siaya, for instance, we have got a similar programme by the National Government, the Government spent over 100 million just next to the Assembly here, Mainga here, there is a construction on that, the County Government ought to have (one) compared that which they already have in consultation with the National Government before planning to spend on this, they are planning to spend, we haven't allowed them to spend, so that one I also disagree with. On the issue of ---

The Temporary Deputy Speaker: Hon. Oriaro, what construction is going

on? You have said there are some constructions, can you enlighten the House?

Hon. Oriaro: Already at Mainga junction next to the industrial area, we are talking of child protection, the police and the prisons etc., all those programs and bringing all the aspects listed here, there is already a programme, it's now four years and the National Government is about to commission child care protection center here in Siaya, the Children's Department is aware.

Whoever came up with this idea never consulted the National Government because child care is in their department and fortunately some bits of it is devolved in the County. Just next to the industrial area here where Otares's Ward is, there is already a similar programme where the National Government spent over 300 million.

Number seven, we are seeing the issue of overspendings, we know how the issue of bursary almost ashamed the County for those few years we have been as a County Government where there were no laws, primarily it is the Executive to initiate laws because they are the people who generate policies. On the issues of elders, they want to still do the same minus instruments! What comes first? Isn't it instruments?

So planning to spend in areas where there are no instruments and logically they will fail the way it happened in the issues of bursaries. We should not plan to fail Mr. Speaker, Sir.

On the issue of number 8, fortunately, they are talking of the metrological department, this is a National

function, if anything is wanted, big or small in terms of knowledge, must we come up with our own mechanism and we even lack credible, technocrats at the County level on this! Will this be duplication? Planning to spend in an area where you are deficient of the technical equip, this one is also worrying.

Number 9, on the issue of irrigation, already the County Government has been spending money out of irrigation; this one reminds us of the controversial Galana Golale- irrigation scheme that swindled with corruption, the one million acre fund. So now we want to spend 5 million and previously we have been spending over 100 million. Is this a joke? Is it for operations? Is it for actual deliveries? This one is worrying.

The issue of spending in infrastructure, bridges, spending of 100 million on roads, maintenance, we want equity, there is no demonstration here and we want fairness and we want specifics, what do they want to spend it on? So all these observations we agree with, I agree with them and I really thank the Committee, even the issue of transformers, the other time they had allocated two transformers per Sub County, we are yet to know where in the previous financial years, we are yet to know where they were taken to. Even on the issue of provision of water, there is a very credible programme ongoing of WASH programme; they are international partnership with the National Government.

As the County Government come up with strategies to taking over, we are even seeing the issue of, Chinese are constructing water bindings and the sewerages. They ought to have talked of strategies of takeover, how they will manage this one because they are soon

winding up. We are even not ready, not prepared on how we will manage the ---, we are still talking about new projects, we know these projects goes to Bondo, Siaya, Gem, Ugenya, which are the new one that you want to come back with, so Mr. Speaker, Sir, on these many issues we should be worried and direct the Executive on how to go about this.

Number one recommendation, we better be revolutionary, there is no harm in re-writing the Annual Development Plan. As per this recommendation, ahead of doing the actual budgeting, ---of the Assembly to wait for the Executive to bring to the House the Budget Bill, we go round and then hold the County at ransom by insisting that it be done the way the Assembly wants, Executive better re-write the ADP as per these recommendations so that we move forward very smoothly, ---to me in my Ward, it is a priority.

The National Government had spent over 300 million in establishing the Annual ---letter, this is a priority, do you want to say that we get rid of it so that we redirect such establishments to other functions? That would be very unfortunate; to me it is a priority of these polytechnics. I conclude; ICT to me is not a priority.

I urge the committee to bring to the House the Budget Bill then we go round and hold the County at ransom by insisting it be done the way the Assembly wants. The Executive better rewrites the ADP as per these recommendations so that we move forth very smoothly. We already have the Appropriate Building Material Technology (ABMT). I disagree with recommendation number 4 of the Report because in my Ward it is a priority. The National Government had spent over Kshs.300 Million in establishing the

ABMT Centre. This is a priority! Do you want to say that we get rid of it so that we direct such an establishment to other functions?

On the issue of polytechnics, I conclude that ICT is not a priority. In the initiation of the budget making process 2016/2017 in my Ward, the managers of Liganwa polytechnic attended and to them the priority was a workshop and provision of water. If this is truly reflective of the County then the views of the people of Liganwa Polytechnic in Central Alego are not in support of this so the idea of ICT to me is misplaced as observed by the committee.

We go the infrastructure including even the provision of water. Am hard placed to support or oppose but all in all this is a true reflection of the views of this House and of County residents. To me I sum it up by saying that it would be better for the County Government of Siaya if they are progressive and revolutionary to take heed to our advice so that they rewrite their ADP for Siaya 2016/2017 FY so that we move forth smoothly so that the Governor will have an easy time to be elected because if all these are not listened to then we are heading towards a terrain of raw politics and the Governor will be displaced by such kind of waves. I rest my case.

The Temporary Deputy Speaker
(Hon. Abayo): Hon. Members, let me make a comment. Hon. Oriaro has talked about rewriting the ADP. Let the House be informed that the first ADP brought to this House was taken back to the Executive and what we have now on which this Report is based on is the second ADP. An endeavor to talk about rewriting will be talking of the third ADP so as you make

your submission be privy to that information.

Yes, Hon. Andiego!

Hon. Andiego: Thank you, Mr. Temporary Deputy Speaker, Sir, I rise to support this Report. Allow me to thank the Committee for the good job they have done. They have made us aware of so many things that the Executive were trying to do which most of them are not as per the law and Constitution.

If you go to the observations, the 3rd one which states that this plan does not adequately address equity in the County. There is a skewed distribution of major projects and programs amongst the six Sub Counties. We need to know where these projects are because at times we are just told that this amount of money is meant for this project and it is not known where it is. At times these projects may be taken to one Ward or one Sub County and others suffer.

Another thing that caught my eye is on number 12 in the observations, "The County Government has set aside Kshs.10 Million for rain harvesting in public schools complete with gutters", to me as much as schools belong to the National Government there are some issues that are much more important to us and when we wait for the National Government to come and do them for us some of our children may suffer. I would say that it is better the County Government be given the gutters and maybe the supplies to collect the rain water. I would request the Committee that this be allowed, we should allow the County Government to collect this water for our schools and it should be to all primary schools not a few so that our students get water.

Another point is the 20th recommendation under Fisheries Sector;

the Committee was not in agreement that the fishing gears be purchased for the group. There has been a subsidy to farmers on seeds and fisheries is also part of this County so I am wondering why the fishermen cannot also benefit from the County Government of Siaya.

It is my plea to the Committee that they should also accept that the fishermen of Siaya County to benefit. How? If there is a subsidy for seeds for farmers there should also be a subsidy on fishing gears this can be done easily by identifying a seller or a farmer in the County or elsewhere where as it is done with the farmers the fisherman who is in need of fishing gears they can come through the fisheries department where they give a letter and they are shown where they are supposed to put their nets so that they can also benefit.

Everybody knows that if you look at our revenue collection it becomes number 4 at that level and I am wondering why you feel that fishermen should also not benefit. The only way that I know it is taking place is that they have not put a good way of collecting money from the fishermen. You will find that...

Hon. Odinga: Point of information!

The Temporary Deputy Speaker
(Hon. Abayo): Yes, Hon. Jack Odinga!

Hon. Odinga: Mr. Temporary Deputy Speaker, Sir, the Hon. Member on the Floor is misleading the House because if you read that recommendation number 20, the Committee does not say that the fishermen should not benefit but what we are saying is that it cannot be bought and distributed to individuals. What we are saying is that the fishermen need to be in an organized group and remember there

was a Motion which was brought here by...

The Temporary Deputy Speaker
(Hon. Abayo): Hon. Jack Odinga, I think that would not be a point of information, you can wait to respond to such issues when replying. Yes Hon. Andiego.

Hon. Andiego: Thank you Mr. Temporary Deputy Speaker, Sir, seemingly the Chair did not read this thing clearly and if you allow me let me read it how it is under the fisheries sector "the Committee was not in agreement that fishing gears be purchased for any group instead the County Government should encourage the formation of organized groups in a bid to effectively manage the sector".

I am saying that we have done it through farmers and the subsidy of seeds. We are not saying you buy to individual, we can buy to the groups as you are saying but in a better and organized manner. We are just asking that the County Government can appoint just as you did on the seeds we appoint a certain seller and we say that you fishermen when you want cheaper fishing gears you can go to such and such a shop...

The Temporary Deputy Speaker
(Hon. Abayo): Allow the Chair to make a clarification and this would refer to the ADP. If you have gone through it, the subsidy that you are talking about there is a subsidy going to be given to fish farmers in form of fish inputs which means you give the feeds to the fish. I think the Committee is only talking about the gear so there is already in the ADP approval that there will be a subsidy in terms of supplying the fish feeds. The only thing is the gears so note that as we talk about the gears there is also provision for the fish inputs for the farmers.

Hon. Andiego: Thank you Mr. Temporary Deputy Speaker, Sir, I do agree but we must also know that most of the fishermen in Kenya deal with the natural lake and even when we look at what farming is bringing in this county it is meager compared to what we get from Lake Victoria so it is just my plea to the House and to the Committee that they relook into these points and they will do it in a way that all those fishermen who are fishing in Lake Victoria also to at least see a sense of belonging to this County.

Observation number 5 talked of restocking Lake Kanyaboli. It is good to restock Lake Kanyaboli but at times this may be an opening for corruption because it is not easy for you to know that somebody has carried Kshs. 10 Million of fingerlings to the lake so if it is done we can only know of the end result. We must be very much in the outlook to know the end result because we have seen somebody say that we have restocked and you are not aware of how the fingerlings were taken to the lake and later you say all the fingerlings died in the lake. You will have wasted that Kshs.6 M worth of fingerlings so in this area we must also be keen and I believe that there should be a framework of how it is going to be done.

There is also the issue under crop husbandry and livestock in number 18, it states that livestock sector proposed 90 cows and 30 chaff cutters. I agree with the committee but we should also be told that when these cows are bought how is a Ward going to benefit or whom are they going to be given to. My proposal is that these cows should be given per Ward so we identify the groups that are dealing with such and all Wards to benefit from the cows.

The 30 chaff cutters is also good if distributed per Ward because it helps in

the issue of maize harvesting and even the millet in the *shambas* so I believe 30 is little so if it can be made 2 per Ward it can also help those farmers to make it easier for them to remove the seeds from the corn. I agree with this Report and I am asking all the Members that we support it and after the support let it be implemented.

We have the issue of implementation we talk in this Assembly, the Report is passed and approved but whatever is done by the Executive is contrary with what we discussed here and this is why we always fail if you look at most of us we are demoralized because we come to the Assembly we discuss issues and later they come to be just as usual. So we are requesting that the implementers should also be put on their toes, we are not here to sing and people dance as we come here to get the allowances and go back. Let whatever is here like this one that we have here be fully implemented so that Siaya can get the development they are really yearning for. Thank you.

The Temporary Deputy Speaker

(Hon. Abayo): Yes Hon. Muhula.

Hon. Muhula: Thank you Mr. Temporary Deputy Speaker, Sir, please remind Hon. Andiego that once he has finished he switches off his microphone.

(Hon. Andiego switches off microphone)

I also want to put my voice and add what Hon. Members have observed in this Report. The essence of having the ADP is to inform the budget and also align it with the County Integrated Development Plan. I would like to remind this House because one speaker stood and alluded that ICT may not be the most distinctive component this County needs to observe and possibly undertake that the world is now becoming

a global village and the only way that we can put people closer to others in terms of development and possibly innovation and creativity is through ICT. ICT in terms of management of finances and budget should constitute at least 2% of the total budget.

When we were looking at the tabulation of the amount allocated to ICT for the Siaya County Government it was about Kshs.84 Million that one takes into consideration both the current and the capital expenditure. I would confirm to this House that possibly the recurrent could take $\frac{3}{4}$ of that 84% leaving us with very little as possibly Kshs.10 Million for the capital expenditure. The intention of this Government is to extend the cable network to almost all the six Sub Counties in this County. I wonder if Kshs.10 million can even enable a cable to move from the headquarter to this town center. If that is what you envisage in the development of Siaya County we need to inform the County Government through the budget to adjust and come out with strategic medium expenditure frameworks that are going to inform the development and more so focusing on the youth and the only area that we can include youths in development is to enhance the development of ICT in this County.

While we were looking at this thing I want to tell the House the reason why we refused and slashed off some of the projects that the Government had already indicated in the ADP is that some of them as had been spoken here are supposed to be the work of the County Government or the National Government.

The second aspect that we looked at when we were looking at this thing is that the alignment of the County Integrated Development Plan with ADP again with

the County Fiscal Strategy Paper what it means is the behavior of the finances that are supposed to be included and in line with the development program showing a route or an indicator that we will be able to achieve at the end of FY.

We must come out very critically on the County Government of Siaya because they prepared an ADP that is not achievable am glad they are reviewing that program right now. They went ahead to do an ADP including projects that they know very well that are not their responsibility and some of them are not even within their development program aligning them in the County Fiscal Strategy Paper.

We are not saying that the government has failed here but as a responsible committee which has been mandated by this House to look into the funding to development programs that will bring positive change to the people of Siaya that is what we have actually been informed that we must come out and please advise the Government that there is something they cannot do because those things are not the things we want as at now. They could be long term projects but at the present funding might not be able to match them at the speed they would want to move with the development.

I want to take you to recommendation on the legal framework on page 6 under section 126 of the PFM Act 2012 every County is required to prepare an ADP which is in article 220 of the Constitution that includes the strategic priority which comes out very clearly for the medium term that reflects the County Government priorities and plans. This is where there is a disconnect of the County Integrated Development plan and then the ADP impressed by the Fiscal Strategy Paper which is supposed to be applying the

idea in terms of the finances for development. This could be one of the reasons why we did a lot of adjustments in these areas.

Number 3 comes out very clear that do we see any sign because if this program that we are trying to refuse here had started earlier then we would be shown the road map to achieving them. There are some development programs that should not be (as much as they are good) started as at now when the term and year is almost ending because we have not again done those basic things that are supposed to make Siaya County move towards the development of the people.

The ADP does not give strategic priority for the medium term and reflect County priority as the medium as required under committee observations and findings. It is with this fact that the Committee has come up with a very good summary that it is giving this House the reason why when it will come through the budget of 2016/2017 which is informed by this ADP they should bear with us and we would want a very open and constructive discussion and deliberation during that time of the budget. I thank you and I thank this House.

The Temporary Deputy Speaker (Hon. Abayo): Hon. Members let me also remind you that you have two reports before you, the Report that was made by the committee on the first draft and therefore you have the Report of October 2015 and then there is the Second ADP upon which we have the current Report of March 2016. So as you make reference to either of them remember the first Report was on the ADP that was referred back to the Executive and the second one that they brought there is the committee Report on

March 2016 as indicated on so let's note that as we make our comments.

Yes, Hon. K'awuor!

Hon. Awuor: Thank you Mr. Temporary Deputy Speaker, Sir, I want to say that I am a member of this committee and Members have contributed and I have read the mood of the House I just wanted to request through you the Mover of the Motion to reply. Thank you.

The Temporary Deputy Speaker (Hon. Abayo): I will invite the Mover to reply but I can see Hon. Apiyo Apiyo has a contribution.

Hon. Apiyo: Thank you Mr. Temporary Deputy Speaker, Sir, it is ridiculous that Hon. K'awuor is asking the Mover to reply yet we still want to contribute!

If we go back to the committee findings that is number 5 of the Report which deals with construction There was that issue of Kshs. 250 million to be used to Ukwala Sigomere Ugunja road estimated 20 km that was a bit too much I think either it was a mistake.

Before we even move to the tarmacking of those roads, I don't want to speculate that it is a National Government or County Government activity. Before we move to Ugunja's issue of the road look at an example of the road passing in front of the Governor's office. That is just an example. It is pathetic, potholes and you give it names towards the stretch to newly build roads down to those sides of Usonga. There should be a culvert there and that road should be tarmac, look at the figure Kshs. 250,000,000.

Why can't we start with our own as an example? There is also no 6. The national government issue, it says the County Government plans to establish a child protection and gender rescue centres

within the County. I really wonder why we get involved in those things as per the Committee findings because when it's a National Government issue then there are representative in the County and why can't we have a Stakeholders meeting and give them the idea of creating these centres instead of talking of issues that don't pertain the County Government.

No. 7, no funds should be programmed before the legislative tool, the bill of quantities. We propose our budget with the public, they give us their input then we pass them in this House it's the Executive to do their bills of quantity. An example is the 30% that goes to the youth, special groups; the construction of toilets at Kshs. 700,000 which is being rolled over to the next financial year meaning that the legislative tools were never prepared in advance and this is why the creation of roll over is coming.

Hon. Temporary Speaker: The legislative tools that are being talked about that putting in place various legislations to support setting up of such funds as have been envisaged or have been stated.

Hon. Apiyo: Mr. Temporary Speaker, Sir, thank you for the advice, that was my example but I did mention that. No.9 is on irrigation, we are told here that the County Government intends to use Kshs. 5million; this is where I want to challenge the Committee. The Kshs. 5million is peanuts for a serious system of irrigation like Israel since its needs a lot of funding and this is one area that I won't support the Committee.

Hon. Temporary Speaker: Hon. Apiyo the Committee says that amount is unrealistically low, like you are also saying the same.

Hon. Apiyo: Thank you, I'm seeing that now. Good work by the

Committee there. No.11, it talks about the County spending certain amounts of money on roads that haven't been mentioned. We have to see and know by name and distance of the roads. When we are told that Kshs.140, 000 is going to be spent somewhere without proper mention and even the distance of the road then there is a big question mark here. So we agree that they will never spend this money without proper laid down structures.

No. 12, this is where Hon. Andiego mentioned some issues; it is upon the County Government to fund schools to harvest rain water for the benefit of our children in the schools. That was my recommendation for the findings, no.7 they mentioned that money to be spent within its functions. Surely, we need to spend funds properly, so I concur with the Committee that let us spend money as per what it was meant for. All monies should be spent as per the BQs, examples are like the toilets.

There was no.13, the 2.7billion for the construction of housing units for civil servants. Indeed it's not the priority of County, let us start with those things that a hindrance to our community, the people of Siaya. Then the next step will be now when we have laid our things properly then we go to that step, now we will look at the welfare of our civil servants and have the units for them. No. 14, the Committee did put it clearly that we need to do something about the road network and bus park. When the County wants to collect revenue we first start by improving the bus parks in market places. When we have places with good bus park then we should tax the buses and matatus for this is where the County Government can

generate their revenues. I support, thank you.

Hon. Temporary Speaker: There being no other presentation, I want to call upon the Mover to reply.

Hon. Odinga: Thank you, Mr. Temporary Speaker, Sir; I want to thank my colleagues for supporting this document. What we did as a Committee was to bring on light what actually is in the Annual Development Plan and as I said earlier is that this ADP; should be taken seriously because this is a document that is going to involve what we are going to put in our fy 2016/2017 budget. Let me start by saying that from a 5year development work plan i.e. the CIDP.

The ADP is derived from whatever we did put in the CIDP, as at now we can say that this is a one year bigger basket in terms of development priorities. From this it noted that everything that they did put in the ADP will be done within this financial year and this is why I was saying that we need to look at this document individually as Members because this will affect us both at County level up to Ward level.

We are soon bringing the Fiscal Strategy paper which is a policy paper; this policy paper is going to inform us on what actually the County Government is thinking of putting in the annual estimates in terms of budget estimates.

Recently, just between the month of January and February, the Members of the Executive went around all the 30Wards and the collected views from the public on development agendas; Members I want to invite you to look at whatever was collected and if at all there are any changes you feel maybe as the representatives of this House you need to input then it is at this time because this time there are changes in terms of preparations of these

important documents. One, that there is a regulation which is saying that it will only be able to adjust just 1% of the total budget.

This we can only do when we have ADP and the Fiscal Strategy Paper and so this is why I'm inviting you Members to liaise with the relevant authorities from the Executive, look at your development proposals from the Ward and if there are variations you feel i need to make as a representative then this is the time. If you allow me also, I said earlier that there is a regulation which was passed by the National Government which is restricting our changes to 1% and it is under PFM Act section 15 (25) 1F if you have time you can also look at that regulation because it will tell you as an Assembly what we can do and what we can't do.

Let me quickly run through the contributions with my colleagues. Hon. Oriaro was asking about the ADMT project and we are saying that it might not be a priority from our side as a County Government and that the Committee was saying that it is not a priority and that we consider shelving that project. It is true that these facilities are put by the National Government so what we are saying that the County Government can work hand in hand with National Government to make use of the ADMT.

Not that the County Government again allocates another or so to construct another facility as was said by Hon. Oriaro that already there exist this facility within the County. As Committee what we are saying is that we don't need to put up another one but the County Government will only need to liaise with National Government so that they can make use of that facility.

On the fishermen, I think Mr. Temporary Speaker, gave a direction on that and there was a misunderstanding but from your guidance Hon. Member for Central Sakwa, Hon. Andeigo is now satisfied that we said we don't intend to buy these gears to individual fishermen but we can subsidize this to organized groups i.e. if they are inform of co-operatives then as a County Government we can buy and sell to them at a subsidized rate. Under irrigation the Hon. Member for South Uyoma, Hon. Apiyo, who said actually that they receive the fruits of irrigation and that he would like the project to continue and he said that the allocation for Kshs. 5million in fact is too little and we need to enhance it.

That is the same thing that the Committee was saying that returns on allocation Kshs. 5million looking at the 30wards within the County will do nothing but at the same time we are saying based on early allocations. There are some allocations which were given earlier i.e. FY 2013/14, FY 2014/15 and as an Assembly we also need a Report on whatever allocations were given and where are the projects and how much were funded so that when we are making another allocation.

We know that if you gave Kshs. 100million last financial year then it has done up to 98% Or 99% of that project so that when again we are doing another allocation we know that this money doesn't in someone's pocket but it ends up to do the intended job and that is why we said if they have to allocate something under irrigation then it must not be something like Kshs. 5million which will not assist. There was also an issue by Hon. Apiyo on rain water harvesting; it is true that water is very important thing in our

life but remember that water sector was not fully devolved and that recently on a newspaper there was a pronouncement by the Minister for Education Hon. Mtiangali that they will connect all public schools with piped water and they also intend to do harvesting.

As a National Government this is a function they can do then as the County Government we now need to concentrate on other areas if the National Government is going to do it. All public schools will have water connections then we can connect on E.C.D.Es. This is a good project but it is misplaced. There was an issue on the child protection and we said it is important to protect children but we are saying as a County Government if you have structures just as was said by Hon. Oriaro that we have a facility which was constructed by over Kshs. 300million within Siaya County then we don't need to allocate some funds to construct the same unless we are restricted and that we cannot use that facility.

We are serving one people and I think that it will be viable enough for us to use existing facilities which are provided by the National Government so that those other allocations can go to needy areas. Otherwise I really appreciate the contributions from my colleagues and I ask them politely to support this document because these observations and these findings are what are going to inform the Executive on how to finalize or corrections to make in the ADP which as I said is a very important document in development for our budget. We are behind schedule in terms of budget process and that if this Report is passed then they must track the corrections then by 30th April 2017, we bring a comprehensive budget estimates for 2016/17, thank you.

Hon. Temporary Speaker: Thank you, Hon. Members therefore I want to put the question.

(Question put and agreed to)

Hon. Odinga: Thank you, Mr. Temporary Speaker, Sir, once again. Earlier I moved a Motion that this House approves the Report of the Committee on budget and appropriations on the Siaya County Quarterly financial Report and budgetary review Report for first Quarter ending 30th September, 2015 in the Table of this House today, Wednesday, March 2016. I don't know if I just Move then you will give Members time because reading from last evening's Report on ADP, we laid it yesterday and then we were told to give Members time to go through.

I would like a situation where maybe a Member will come up and say that they have not gone through the Report. I wanted to request that if you allow I can Move then we give you humble time and debate in the afternoon, if you rule Mr. Temporary Speaker.

Hon. Temporary Speaker: Yes, I think it makes sense, we will allow that you Move this Motion so that Members can then take time to look through it and be able to discuss it in the afternoon.

Hon. Andiego: Point of Order!

Hon. Temporary Speaker: Yes, Hon, Andiego.

Hon. Andiego: Mr. Temporary Speaker, Sir, we don't have enough Quorum. Is it in Order to debate without the Quorum?

Hon. Temporary Speaker: Clerk do we have a Quorum?

(Clerk-At-Table confirms that there is Quorum)

Hon. Temporary Speaker: Yes, there is a Quorum, Hon. Odinga, proceed.

Hon. Okuku: Point of Order!

Hon. Temporary Speaker: What is it Hon. Okuku?

Hon. Okuku: Mr. Temporary Speaker, Sir, you don't set a precedence of cheating the House; we can't cheat ourselves that we have Quorum and yet we don't. What is the mandatory number of Members to transact any important business that we are going to transact this morning?

Hon. Temporary Speaker: Hon. Elisha, I did ask the Clerk and the Clerk has confirmed that there's Quorum.

Hon. Okuku: Mr. Temporary Speaker, Sir, that is what we are contradicting and interrogating as a House that even though the Clerk has confirmed, can we do a reconfirmation.

(Hon. Members confirm that there is Quorum)

Hon. Odinga: Can I continue, Mr. Temporary Speaker, Sir?

Hon. Temporary Speaker: Yes, Hon, Odinga.

Hon. Odinga: The Siaya County Government quarterly supplementary budgetary report is divided into three phases. The quarterly financial budgetary report gives Report the first quarter ending 30th September, 2016 has been made in line with the provisions of sections 166 of (a) the public finance management act 2012 which states that not less than one month after the end of each quarter the County treasury shall consolidate the quarterly Report and submit them to the Assembly.

As public entities, Counties have the authority and responsibility for County financials and resource management. Financial Report therefore begs to assist users in evaluating the operating results of the County for the period under review as well as to show how cash and other

resources were obtained and spent during the period under review.

Mr. Temporary Speaker, Sir. To ensure that the spirit of article 200 of the 2010 Constitution is fulfilled and that the issues eminent from the quarterly are fully addressed. The Committee ventilated through the Report and from which observation and regulation are drawn. During the quarter the County Government had only collected a total Kshs. 29million against a target of 230 million for the year which translates to 12.6% of the annual target of the County revenue.

The County Government had spent 537million both for development and recurrent which was 24% of the total budget, during the first quarter the Siaya County had not guaranteed any loan, had no any external financing, had no external debt and similarly had not borrowed from a domestic market. As a result of domestic market the County accumulated debt amounting to 222 million and are debts inherited from the defunct local Authority and whose issues had not been penalised by the Transitional Authority.

The budget appropriation finance Committee therefore has examined and discussed the Reported financial and budgetary review Report for the first quarter ending 30th September, 2015 and has made recommendations as indicated in this Report. If you will allow I can just give Members time to go through the Committee mandate and then Membership also can preposition the same then if you again allow I can go to Committee meetings.

In the review of this first quarter financial and budgetary review Report for the first quarter ending 30th September, 2015 so as to adequately satisfy itself that reflects the implementations of the

programs as approved by this body and that it demonstrates effective and efficient financial management. The Committee had several meetings to consider the Report. During its seating's the Committee invited and met County treasury during which verbal elaborations and written submissions were given on issues raised by the Committee to be of major concerns. This meeting were held to inform the Committee in making key observations and consequently recommendations.

ACKNOWLEDGEMENT

Mr. Temporary Speaker, Sir. First and foremost on behalf of this Committee I wish to express our gratitude to the offices of Siaya County Assembly Speaker and Siaya County Assembly Clerk for the support we received as we discharge its mandate of examining this quarterly financial Report for the first quarter ending 30th September, 2015.

The Committee similarly extends its gratitude to the Finance department of the Executive arm of the County Government for the role they plaid in offering --- on this Report as requested by the Committee. Further, I wish to express my appreciations to Hon. Members of the Committee who traded off their time to participate in the activities of the Committee and whose dedication and fortified saw the completion of this Report.

Again we cannot forget the secretariat that had to go beyond their normal 5 weeks, and then finally the Committee extends it appreciation to the Citizens of Siaya County for their patriotism and input in development of projects and prioritization which has really helped enhance the identification of the needs of the County.

THE ANALYSIS OF THE FIRST QUARTER FINANCIAL REPORT 2015/2016

1. Local Revenue Collection.

During the quarter review the cumulative local revenue collection was Kshs. 29,169,787 given a target of Kshs. 57,500,000 which means that during the quarter the County fell short of its quarter target by Kshs. 28,330,230.

2. Top 5 revenue resources for the County and this were as follows:

- a. Hospital revenue which collected a total of 10,995,462 which is 38% of the total contributions during that quarter.
- b. Market receipts 5,171,560 which constitutes 18%.
- c. Single business permits 3,017,102, which is 17%.
- d. Bus Park 2,584,250 which constitutes 9% of the total collection during that quarter.
- e. Agriculture 2, 465,128 which is at 8% and the remaining sources collected less than Ksh. 1,000,000 as shown in the annex 130.

Then direct funding or exchequer release that is what we got from the National Government. During the period under review the County received 860million from the exchequer to fund its budget. These monies were received in two disbursements of Kshs. 200million and 660million, similarly of the total exchequer release review quarter Kshs. 613million was received on the current expenditure while the other 247million meant for development expenditure. Further details of budgetary expenditure are as shown in annex 2 and we also have those releases as annex 2.

3. Then overall County expenditure:

During the quarter the County spend a total of 537,442,595 which presents a consumption of 34% of the total quarter budget of Kshs. 1.5 million. Of the total expenditure recurrent expenditure consumed Kshs. 496,825,941 which is 92.4% of the total expenditure, while development expenditure consumed a part of Kshs. 40,616,654 that is 7.6% of the total expenditure.

On the recurrent expenditure salaries/remunerations/ wages consumed Kshs. 406,399,982 which is 81.6% of the recurrent expenditure while operations and maintenance expenditure amounted to Kshs. 91,425,959 which is 18.4% of the recurrent expenditure. Health sector had the highest absorption rate at 99% of its budget followed by Finance and Economic departments at 61%, Water, Environment and Natural Resources at 58%, Agriculture at 54% and County Assembly at 53%. There is also an annex No. 4 for reference.

The County Government also consumed 6.47% of its budget on development expenditure. In addition the County did spend Kshs. 7, 009,075 which is 31.48%. The only other sector which spent their development funds as budgeted for is the Education Sector which spent Kshs. 10,942,781 which is 7.14% absorption rate and the Road sector which spent Kshs. 22,664,135 at 13.51% absorption rate which is also show in annex 5.

FINDINGS

That during sittings to consider the County Government of Siaya quarterly financial and budgetary allocation Report for the first quarter ending 30th September, 2015 the Committee made the following findings and supervisions:

1. That the County Government of Siaya quarterly financial and budgetary allocation Report for the first quarter ending 30th September, 2015 has not been published nor publicized. This is in cooperation of section 166(c) of Public Finance Management Act which states that not later than one month at the end of each quarter the County Treasury shall publish and publicize a Report for each quarterly financial year with respect of the County.
2. There was a general decline of Ksh. 6,925,713 that is in revenue compared to the same period of FY 2014/2015. This is a clear indication that the County Government could be relying too much on the exchequer releases hence is reluctant to improve on local revenue collection.
3. The recurrent exchequer is at 16.3% of the total estimates.
4. The absorption rates of the current estimates as compared to the exchequer release were highest for Finance and Economic planning at 153% followed by County Executive at 115% meaning that this are the two areas that overspent what they were supposed to spend within the first quarter and that is why they are going above 100%. Finance and Economic planning department recurrent expenditure was 69 million while the exchequer releases for the department was 45 million implying an over expenditure of 24 million. At the same time the County Executive expenditure was 116 million against the exchequer releases for the department 101 million implying an over expenditure of 15 million.
5. The total development exchequer release of 247 million, only 40.6 million or 16.44% was fed on projects. The roads and transport sector spent 12.7 million more than the funds released for the sector.
6. There are four sectors namely The County Executive, Water, Environment and Natural resources, Lands and Physical planning and Tourism and ICT which did not receive any exchequer release for their projects during the first quarter under review.
7. That the Report does not give or indicate the projects funded using the exchequer releases. These would enable tracking to ensure that only projects that were allocated funds are being funded. Then when we met the Executive treasury, this are the submission of Hon. Cleophas Ombogo CEC Member of Finance and Economic development together with his team while before the Committee to give reasons as to why the County only spent 16% of the exchequer release for development expenditure.

He stated that exchequer releases for the first quarter was for FY 2015/2016 while what was paid was for FY 2014/2015, such that the Exchequer release was received late in the quarter, hence it was not possible to dispense it off within the quarter. If you look under the issue of releases you find that it was in late August so we are saying

that it was received late. He also reported that the funds were used for the intended purposes in the following quarter which is the second quarter which we are yet to look at as a Committee.

There was another reason as to why there are always delays in payment meant towards development projects. The County Treasury reported that this are majorly caused by low capacity in engineering department in terms of certification of projects and submission of special certificate and other necessary documents for an acceptable payment. Then when asked to explain the flow of funds to other departments released from the Exchequer which got funds in the Central bank but didn't spend or if there have been any transfer of funds from one sector to another.

The CECM reported that the distinctive CEOs are always issued with AIEs that is authority to incur expenditures according to the funds received. Furthermore it emerged that since March 2015 it is not possible for an officer from Finance department to transfer funds from one department to another without the consent of the respective AIE holder.

On the expenditure of over and above or without as we said earlier. Budgetary allocations or Exchequer releases for some departments, the County Treasury reported that it is always done to sort the liquidity problem and more so when a project whose funds is not yet ready for payment but already had been approved for

payment. This they say is only possible if the project whose money is borrowed is also provided for in the budget and the same amount thereafter is requisitioned or replenished the cash position.

That is what we are saying that if you have project A and B and all the projects are independent and in terms of completion project B is completed and needs to be paid while we only have funds for project A. Then we can borrow funds from project A to pay for B and then you requisition for project B you fund project A, that's what they meant with that statement.

Then as a result, the preparation of format for preparation of the Report the CEC member for Finance admitted that the respective departmental Chief Officers have not been preparing their respective quarterly financial Report as expected. He further admitted that there has never been a set standard format presentation of County quarterly financial report. However, the standard format currently used by Siaya County has been accepted by the controller of budget and is also used by some other Counties including Machakos, Homabay and many others.

RECOMMENDATIONS

After deliberation of the above findings the Committee come up with the following recommendations for adoption by this Assembly:

1. To ensure conformity with section 166,4(c) of the Public Finance Management Act

which states that not later than one month after the end of each quarter the County Treasury shall publish and publicise the quarterly financial reports, the County Treasury should ensure that this quarterly reports as well as other quarterly reports are earlier prepared by the County Treasury as soon as its practicable.

2. For this Assembly to keep a close eye on revenue collection in this County and the County is discouraged from heavily relying on revenue from the National government. This Committee recommends that within 3 weeks or 21 days the County revenue department should submit to this Assembly a revenue collection enhancement strategy for consideration and I want to elaborate here by saying that when we met them we had agreed that within 3 weeks as a Committee we will meet them to get these revenue enhancement strategy because they were saying that they also have the County revenue Committee. So as a Committee we wanted to meet this revenue Committee and see what they do, the kind of reports they prepare and the kind of strategies they have put in place to enhance revenue collection within the County government of Siaya. So when we are requesting for 3 weeks it means that from now if this Report is adopted then we would have

met the Committee and then within 21 days now we will be able to report to this House any strategies put in place to enhance local revenue collections.

Then there was also an element of revenue digitalization that is automation, there was a pilot project which was implemented in 2013/2014 and as a Committee we are saying that we need to see that Report so that it informs the House whether that Report will enhance revenue or otherwise.

3. As much as the Report miss the acceptable format for submission for quarterly financial Report. This Committee recommends that in future the submitted quarterly Report should be accompanied with annexures such as respective departmental original financial Report including projects funded using exchequer release. This will enable the Assembly an oversight body to closely follow the implementation of approved budget. Here we are saying that it's very clearly in the PFM Act that these quarterly reports should emanate from the accounting officers in every sector if say for example in Agriculture, the CEO Agriculture needs to prepare a Report he submits the same to Treasury just for consultation. But initially we found that this Reports are prepared at the Treasury and

not emanating from the secretarial accounting officers. So what we are proposing as a Committee is that next time when we are looking at the second quarterly financial report we need supporting evidence that actually these report emanated from the secretarial accounting level.

Then to avoid spending funds of projects not requisitioned for the County Treasury should device a system that could ensure that requisitions are only done towards projects which are complete and satisfied for payment and whose progress have been approved by relevant department. This is mainly so as to avoid issue of payments of projects outside budget or payments of projects which have not been done. So we are saying that a requisition should only be done when there is documentation, certification that actually a project has been done and needs to be paid.

Therefore, in conclusion the Committee request this Assembly to adopt this Report and further resort that the proposed recommendations as obtain in this Report the County Government Siaya Quarterly Financial and Budgetary Review Report for the first quarter ending 30th September, 2015 be adopted. Then Mr. Temporary Speaker Sir, we have as I said earlier annexure 1 attached here is on revenue collection analysis, annex 2 is on exchequer releases on recurrent budget then annex 3 exchequer releases for

development estimates, then annexure 4 is the first quarter expenditure analysis recurrent expenditure and we further went ahead and said sectorial expenditure absorption rates. What we are quoting in our Report, then annex 5 is the first quarter expenditure analysis on development expenditure also per sector. So this are attached for reference for Members and I call upon Hon. Otare to second.

The Temporary Speaker (Hon. Abayo): Yes, Hon. Otare!

(Hon. Otare seconded)

(Question proposed)

The Temporary Speaker (Hon. Abayo): As it has been requested we will give Members time to go through this Report, synthesis the recommendations and that this can be discussed in the afternoon.

Next Order!

MOTION

ADJOURNMENT

The Temporary Speaker (Hon. Abayo): Hon. Member there being no any other business this House stands adjourned until this afternoon 2.30 p.m. here.

The House rose at 11.40 a.m.

WEDNESDAY, 9TH MARCH, 2016

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

(The Deputy Speaker (Hon. Adera) in the Chair)

PRAYER**QUORUM CALL AT THE
COMMENCEMENT OF SITTING**

Hon. Deputy Speaker: Can we start?

(A Hon. Member confirmed lack of quorum)

Hon. Deputy Speaker: Can the Quorum Bell be rung for ten minutes!

(The Quorum Bell was rung)

(Loud consultations)

(Several Hon. Members walked into the House)

(Quorum confirmed)

PAPER

Hon. Muhulah: Mr. Deputy Speaker, Sir, allow me to lay the following Paper on the Table of the House:

Report of the Budget and Appropriations Committee on the Siaya County Budget Review and Outlook Paper for the FY 2014/2015

(Hon. Muhulah laid the document on the Table)

NOTICE OF MOTION

THE SIAYA COUNTY BUDGET
REVIEW AND OUTLOOK PAPER FOR THE FY
2014/2015

Hon. Muhulah: Mr.

Deputy Speaker, Sir. I rise to give notice of the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Siaya County Budget Review and Outlook Paper for the FY 2014/2015

MOTION

THE SIAYA COUNTY QUARTERLY
FINANCIAL AND BUDGET REVIEW REPORT
FOR THE FIRST QUARTER ENDING 30TH
SEPTEMBER, 2015.

*(Continuation of debate interrupted on
Wednesday, 9th March, 2016, Morning
Sitting)*

Hon. Deputy Speaker: Hon. Members, the Motion at hand had already been moved, seconded and question proposed. Debate can now ensue.

Hon. Oriaro: Thank you, Mr. Deputy Speaker, Sir. I only have a few remarks on the Quarterly Financial Report. From where I stand, the recommendations are too weak. The submission of Quarterly Reports is statutory and timelines must be adhered to. I would have been so happy if the Budget Committee came up with draconian recommendations. They have a tendency of not adhering to timelines and so there is need to have a very serious recommendation that will provoke them to submit reports in good time.

The second concern is that it is only one department that is forwarding the Quarterly Financial Reports yet when we know that they should originate from all the Departments. Though not captured here, the various Departments may even be surprised if we are to grill them over the origin of this document.

The recommendations here are just mechanical. The Committee appears to have been sucked into procrastination by the Executive. I fall short of supporting or opposing the Report.

(Laughter)

Hon. Andiego: Thank you, Mr. Deputy Speaker, Sir. Allow me to thank the Committee for the work they have done. The Committee seems to be very much committed and we applaud them for their work.

(Applause)

What caught my eye in the document is revenue collection. From 2013 to date, the County Government of Siaya has not met its revenue collection targets. This is quite sad and I feel that something should be done to the revenue collectors. In page six it is indicated that local revenue collection was Kshs. 29,169,787; against a target of Kshs. 57 million. This indicates that during the Quarter, the County fell short of its target by Kshs. 28million. This is very sad. It shows that we only depend on the money released to us by the national government. The people concerned should pull up their socks if this County is to see development.

On why there is always delay in the payment of monies towards development projects; Mr. Deputy Speaker, Sir, we have the money and staff who know what they are supposed to do yet you find projects

have been done but payment becomes an issue. Contractors present their vouchers for payment and it takes more than five months. Makes you wonder what our workers are doing in their offices.

We also realise that the County Executive has not been submitting its reports to us as required by the law. Quarterly Financial Reports have never been submitted on time. We urge the Committee to look into this.

Lastly, I have been saying and I repeat; it's difficult oversighting what you don't know. It is only through such Reports that we become conversant with what is taking place. We request that these Reports must just be given as required by the law so that we as an oversight body can know what is happening. Otherwise, I thank the Committee and I do support the Report.

Hon. Muhulah: Thank you, Mr. Deputy Speaker, Sir. The issue of revenue collection as has been alluded to by the Hon. Joannes Andiego is a concern. In the FY 2013/2014 revenue collection projection was Kshs. 300million and the County Government only collected about Kshs. 150million. Mr. Deputy Speaker, Sir, again in the subsequent Financial Year, the projection for the collection of revenue was reduced deliberately to Kshs.230, 000 from Kshs.300, 000 so the county Government failed to get the target to that. There is a proposal that this year the County Government should reduce the targets from Kshs.230, 000 to Kshs.200, 000.

When I look at that trend with the warning that I have been shown by the revenue allocation, we may find ourselves in a catch 22 situation where even the revenue that are allocated in Siaya County could be reduced. It is a concern to this

committee and I would want this House to take it seriously that those revenues must have to seek new rates collection for the revenue so that we are able to enhance the revenue that we collect from the County.

The other pertinent issue that we did realize when we were looking at this Quarterly Report...

Hon. Awuor: Point of order!

The Deputy Speaker: Hon. K'Awuor what is your point of order?

Hon. Awuor: Mr. Deputy Speaker, Sir, for records purposes I think I have heard the Hon. Muhula say that the target for 2013/2014 was Kshs.300, 000 instead of saying Kshs.300, 000,000. Thank you.

The Deputy Speaker: Maybe he meant Kshs.300, 000 let him clarify.

Hon. Muhula: Mr, Deputy Speaker, Sir, that is the reason why when the Vice Chair talks then the other members have to listen so that they can always come in.

The Deputy Speaker: Proceed.

Hon. Muhula: The very concern...

The Deputy Speaker: Can you first clarify whether it is Kshs.300, 000 or Kshs.300, 000,000 for record purposes.

Hon. Muhula: Hon. Members, we never talk of thousands when we are talking about the County Government we talk about millions maybe he didn't hear me correctly.

The Deputy Speaker: Please correct yourself for purposes of our records.

Hon. Muhula: It is Kshs.300, 000,000. The issue of payment of the Siaya County Government is wanting because we are spending more of the recurrent money and failing to spend more of development money while we are supposed to be spending more on development because we are changing

lives we are concentrating on expenses without better returns on the investments.

As at now I would want to inform the House that even things that are very necessary that have not been paid by the County Government are not paid. All the vehicles for the County Government of Siaya today are actually stalled because the trackers have stopped them. They cannot move because the trackers were not paid and they went and disabled all of them and yet the County Government is saying that these things were paid.

The vehicles that went to Ugunja to fuel were clogged and up to date they have not left that place. None of these CECM's vehicles is operational. I have just visited the agricultural mechanized department of Siaya County the trackers that have stayed for 1 year are all grounded for simple spare parts; what is the need of investing on other tractors when what we have we cannot maintain.

It is a concern, you will get that all the money that came from exchequer, some departments including ICT and Agriculture could not even get 40% of the whole amount. I have had a chance to speak with the people from ICT. Today I spoke with the people from Agriculture they cannot don't even spare only Kshs.5000 to repair a tractor so a tractor is grounded because of that. That is what is coming out from that Annual Report! It is really regrettable that every end of the year we can send back over Kshs.1, 000,000,000 in terms of projects that are never done because County Government will always rush to do the projects that are not even within the budget. This one has brought a problem for the Siaya County.

Today some projects are already completed while some are not; contractors still keep on running in the corridors of the

County Government for their pay. We are left with only 2-3 months for the closing of FY 2015/2016 again we are going to send money back simply because we have not paid and we cannot pay. This is a government where we have roads and people can stand up and say what they can pay and what they want. We are clogging liabilities for no good reason.

What we noted here which is a critical issue and must be addressed very fast is the time line which the Reports are submitted to this House. Section 166 is so clear that this Report must come when they are needed not when they are rolling into another quarter. It is a concern.

The most critical thing again is finance and speed of implementations which are the very success factor for any County Government to develop. The absorption rate of the finances in this County Government is something that people need to discuss very seriously and this Committee has always asked the County Government is it the capacity, the planning or is it the exchequer that is bringing the problem. If it is the exchequer why is it other Counties are doing much better, they are completing the development projects within the time that is stipulated but Siaya we are more concentrated in consuming recurring while again delaying the development programs for reasons best known in line with the Executive.

The 4 sectors I was talking about that mostly received this money from the exchequer that I did not get are Land Physical Planning, Tourism ICT Environment and Natural Resources. Even the allocation for water development is so slow. Without a very good determined way forward and again I want to reiterate to this House that if we cannot emphasize an

investment on Tourism and ICT, Tourism as a Department is a revenue earner for any County. ICT as a department is the only way that can connect this County to creativity and innovation if we really want to go forward we must invest in ICT.

The delay in payment as I said earlier on needs to be looked at and the committee thought that at least the capacity in the engineering department could also help in spearheading these payments.

The flow of funds is also another issue here that is not very clear because the County Government up to today only talks about the money that is sent from revenue allocation but this Government has never said at any given moment how much money they receive from UNICEF and how much money they receive from NASCOP which go almost directly to a personal account in the Ministry of Health. This one is a matter that I would urge this House to look into, I am yet to bring a statement that PIC and PAC Committee need to look into it very well.

The Deputy Speaker: Did you say that some money goes to some personal account?

Hon. Muhula: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker: You know you will have to substantiate

Hon. Muhula: I will substantiate in the near future

The Deputy Speaker: Not in the near future, you are aware that whenever you make an allegation especially the kind you are making then you have to substantiate. If you can't substantiate then you better withdraw that statement. If you want to do it in future then you will make that allegation in future.

Hon. Muhula: Mr. Deputy Speaker, Sir I have already given the message for now I will want to withdraw but the message should stick that the money is being received.

The Deputy Speaker: Proceed.

Hon. Muhula: Mr. Deputy Speaker, Sir, we are only told here about the money that is coming from the exchequer but again the question is one that when we do budget annually we tend to rely on sectorial estimates that each and every department brings what they expect to have or to use at the end of the year. The same way they do their budget is the same way we would have wished the County Government to also give the authorities of AIE. For God's sake somebody cannot run through the corridors looking for Kshs.10 or Kshs.15 to buy a pen.

We are not starting a new government, we have only changed the name of the government but we are continuing with the process and systems that were there before that. Before the departments used to get the money and this person would use this money and then do the returns on the imprest. Why can't that happen now? Does this House see that these are the things that are actually slowing down the development of this County?

I have alluded today to the fact the agricultural department that houses the tractors they cannot be serviced for simple things that cost as little as Kshs.30, 000. New tractors that have not worked for even 1 year have stopped. Today getting fuel is a problem but again it is a tradition that even this County Assembly has taken a precedence of getting services but they don't pay. Every single day we keep being reshuffled from one single hotel to another because we are having debts behind. I

don't think that that is a good precedence. It is a bad tradition and next time these Hon. Members will get stuck. You will one time arrive in Kisumu very late and you don't have money save for Hon. Muhula who has a credit card!

(Laughter)

You will not be allowed to sleep in the hotels! This is because we are already having a bad name out there. Every single day we go to a hotel we incur debts there instead of settling that debt we move to another hotel.

The Deputy Speaker: Hon. Muhula you are out of order! We are discussing Siaya County Quarterly Financial Budget Review Report for the first quarter ending 30th September 2015 which is basically from the Executive we are not discussing a document from the Assembly. If we had one from the Assembly then you would raise various issues. Don't mix issues. Hon. Apiyo Apiyo, you were on your feet?

Hon. Apiyo: Thank you, Mr. Deputy Speaker, Sir, you have clarified what I wanted to put across.

The Deputy Speaker: Hon. Muhula, proceed.

Hon. Muhula: Apparently the Annual Development...

The Deputy Speaker: Please don't go that direction please discuss the Report, you are a Member of this committee.

Hon. Muhula: That is why I wanted to clarify I wish you allowed me that sometimes the Annual Report is not only a Report from the Executive it is a Report for the entire Siaya County and it therefore means the County Assembly is part of it.

The Deputy Speaker: Hon. Muhula I believe I have gone through the document and it does not talk about the Assembly. If there is any part touching the Assembly then you let the Chair know.

Hon. Muhula: Thank you, Mr. Deputy Speaker, Sir and most obliged. I will speak to the Executive.

(Laughter)

The recommendations that are here I want to say that I am most grateful to my colleagues. I have highlighted them here especially the issue of timely reporting for the financial positions especially that was good enough and the issue of revenue allocation because the danger again in giving projections that are not attainable is that they are felt in the development fund of the County as to such I would urge this House especially the department of both Finance and ICT that you should pray to the Executive that if possible revenue automation should be done as fast as possible in order for us to realize what we are supposed to be doing.

We need to be careful in my humble submission that at least at the end of this year it should never be a confirmation that we have made it a tradition that the County Government of Siaya must always return back the money as is known by the common man in Siaya because for them what they know is that that money is never crossed over for them. What they know is that that money is returned because we cannot do the development program.

I once again thank the Committee of Finance for having worked so hard and again urge the House to remain vigilant for us to achieve the endeavours of Siaya people for the Siaya they wanted in 2013. Thank you.

The Deputy Speaker: Thank you, any other contribution? Hon. Abayo!

Hon. Abayo: Thank you, Mr. Deputy Speaker, Sir, let me also note that I am a Member of this Committee and a lot has been said, so I just want to remind Members that this summarized Report highlights very key indicators that my brother Muhula has mentioned. There is need really to read in between the lines to understand that we could be breeding a more serious problem moving forward. This is the first quarter financial Report and we could be looking at the second, third and fourth this year but the provision expressed in this Report as stated by the Committee and want to repeat that the Members look at them critically.

A number of things have been mentioned, but I will address myself to only two issues just for emphasis that we can put this into context with a way of making a difference to move on; on recommendations No. 2 it's clear that Siaya as a County we are doing poorly and I think this has been highlighted but I want to repeat for emphasis that in terms of exchequer releases we see increase every year and that is expected, but when we come to local revenue we see a clear downward trend not just with the receipts or what we are able to receive every year.

There is a correlation that there is also a downward trend in the prediction and I want to mention that I think our first budget 2013/ 2014 must have targeted a bout 150million then we got excited and jumped to 301million. In the records Hon. Muhula talked about 300million but its 301million. Then thinking that we were moving fairly with our own projections as a County it went to 230million then it is now going to 200million, what does that tell us?

This shows us that there is a clear design and even the Executive have decided that they will think downward that is shown from their projections which correlates very well with even the achievements of those --- . Our achievements on how much we are raising keeps on going down. This is a scenario that we must stand out as an Assembly to say that this will not continue. It's on this basis that the Committee did sermon the whole team both the revenue and the executive team in charge of finances and we have also shown in this Report verbatim in terms of report that we got.

This is an area that we must be able to tackle and as a Committee having had very candid discussion we did say that we must have a strategy. The strategy we are talking about here of how to enhance revenue collection is going to be water tight. We are saying everybody charged with revenue collection is going to targets that we are going to set for them on monthly basis upon which on monthly basis upon which we will be able to assess whether each and every sector or personnel is actually delivering, it's a serious case.

The Committee goes ahead to talk about digitalization that is automation; very interesting. We thought and we all believed and I want speak as the Chair of ICT, it is know that you will be able to mainstream ICT into our operations and I want thank the Executive because they have even gone ahead to put forward the E Government Bill that will be coming to this House. In an endeavour to turn round the situation that we able to rise more money, 2013/2014 we committed 25million for a piloting phase in the line of digitization.

2013/2014, 2014/2015 and the trend is going down yet we have not gotten

a report whether this digitalization is real. It is this Report that the Committee is saying that they must be availed. I know time to do that was 3 weeks, so we are expecting that all these Report will be with us.

I want to give example; it goes in record that Kitui as a County was given an award for having digitalize its operation but let me take the example of Kiambu Count , that you allowed Members for ICT to visit Kiambu and that was last week. The Report will be coming to this House but Kiambu having committed around 600 let me say 450million in a budget the turnaround within one year was 2.1billion.

Investing Kshs. 450million and the revenue collection from Kiambu County within one year was 2.1billion and they are expecting more as the Report will be coming to us here. We therefore believe that digitalization will make a difference and make this County raise more money as expected; this could be unfortunate leave alone what the County council of Siaya was able to rise over 300million then, what has happened today?

All of us as an Assembly must take this seriously otherwise we are operating beyond our means and that is why some of our projects cannot be funded because we have failed to raise the money. One other interesting thing that we need to know is that if we have set our budget and we fail to raise the money with even Kshs. 100million, the exchequer releases will be reduced by Kshs. 100million. It is a serious scenario and we must say no to this.

Allow me to get to No.3 and that would be my last. We are talking about figures in terms of the format in which the Report is tabled to us, what they do if you look at the Report that the Executive

would put a summary that in this quarter this sector has spent this certain amount of money. It is not easy to track that block figure with the specific items of programmed budget or programmed items under that sector, and that's why we as Members in this Committee are saying that the tendency of giving us block figure should stop.

We will want to go into details such that if it were Finance and Planning which budget items within that sector did receive funding and actually there was spending. This is what we are saying that we will go into details that have come from various sectors that as we come into this House leave alone the block figures the Members here can also interrogate because we have officials, the chairpersons or Members of those Committees, they want to know.

This is one thing that come next financial Report we will want to see that breakdown and it's also in that level that we would be able to determine and see whether the said performance indicators that had been tied to this specific program budget are actually being achieved, thank you.

The Deputy Speaker: Hon. Okuku.

Hon. Okuku: Thank you, Mr. Deputy Speaker, Sir, allow me to bring my condolences from Yimbo East Ward to Hon. Shaban who has lost his dear wife and I would also love to extend the wishes from Yimbo East Ward which I present to West Uyoma to the most popular candidate to win and come here as a Member for County Assembly representing the people of that place as we all know that West Uyoma are orphaned people and we must wish them well.

Allow me also to applaud this Committee for the thorough work they have done, headed by my brainy friends; Odinga, Abayo, Muhula and K'awuor. They have really worked round the clock. I once happened to be sit...

The Deputy Speaker: Hon. Aneme, your head is so slow beyond reason.

(Loud consultations)

Hon. Okuku: Allow me to also applaud Hon. Aneme for the tireless commitment that he has shown to this Committee. One time I happened to sit in the board room and fortunately or unfortunately a group of confused elements joined us where we sat with this so called Committee of Budget and Finance. I saw somebody by the name Ombogo and Mirega ...

A Hon. Member: A point of Order!

The Deputy Speaker: Hon. Member what is happening?

A Hon. Member: Thank you, Mr. Deputy Speaker, Sir, is it in Order for the Hon. Member to refer to a whole CECM as a confused figure coming to the Committee? Is it in Order?

The Deputy Speaker: I highly doubt if implied that the confused element was Hon. Ombogo but if that is the case, in that case, Hon. Elisha, did you refer to Hon. Ombogo?

Hon. Okuku: Not really, Mr. Deputy Speaker, Sir.

(Loud applause)

The Deputy Speaker: Then can you give us the name so that the House can also know who these confused elements are, personally I have never seen any confused element before.

Hon. Okuku: I happened to sit in one of the board rooms at around lunch hour and the so brainy team who sit in this Budget and Finance Committee joined us. We were with Hon. Aneme and after a while a group of people joined us who are not from this Assembly whom I thought were very up right but when the Committee started interrogating and questioning issues concerning the finances of this County, they became confused and that's why I termed them as the confused elements, who joined this committee and allow me to express ...

The Deputy Speaker: Are you referring to the Members of the Executive?

Hon. Okuku: Am almost reaching there if you allow me ...

The Deputy Speaker: I want you to reach there very fast, you are taking too long. Are they Members of the Executive?

Hon. Okuku: Of course, yes.

The Deputy Speaker: okay, on that ground, I will ask you to withdraw that statement because it's very unfortunate Members of the Executive and in fact even any Member who joins you in any Committee meeting can never be a confused element whether it is a member of the public, an employee of the County or any County. We cannot have confused elements and I direct that you withdraw.

Hon. Okuku: Mr. Deputy Speaker, Sir, as per your direction, allow me to --- even though the message has sunk.

The Deputy Speaker: The message can sink but can you withdraw it?

Hon. Okuku: It has sunk, Mr. Deputy Speaker, Sir, I withdraw.

The Deputy Speaker: The message sunk but can you withdraw it? It sunk but you have withdrawn so that means it didn't sink, sit down. What is it now?

Hon. Oriaro: But chair, on a point of Order! Mr. Speaker, Sir, you always observed and it's very common with the CECM Agriculture, she always cry before us when being interrogated, so could it be that the Member is right or that is not confusion, it is crying?

The Deputy Speaker: That is not confusion; a human being can never be an element. Hon. Elisha, can you proceed with the main debate!

Hon. Okuku: When I sat there I heard my colleagues struggle to interrogate them in order to get to know the bottom line of this paper we are discussing this afternoon. It was like a new thing brought before the CECM and his team. It was difficult for this Committee to come to a conclusion ---

Hon. Deputy Speaker: Hon. Elisha, you know when you attended the meeting you attended as an ordinary person, not as a Member of that Committee and therefore you cannot tell us what transpired in the Committee where you are not a Member. Therefore, whatever you are telling us about the Committee proceedings are irrelevant.

If anything, it is the Committee itself that was supposed to present those concerns and not any member of the public including any other Member of this Assembly who is not a Member of that Committee. Therefore the concerns and the observations that you made that day are irrelevant to us. Kindly stick to the topic, stick to the debate!

Hon. Okuku: Thank you, Mr. Deputy Speaker. Section 166 of the Public Finance Management Act has not been adhered to. This is a serious economic cry and the team from the Executive is used to not to obey the Constitution and even the Public Finance Management Act. I

therefore ask this Committee to pull up their socks and bring to us the way Hon. Oriaro put it, a strong measure.

After finding and listening carefully to the speaker, the vice Chair, the way Hon. Muhulah attributed and contributed to this Floor, you find that after unearthing everything, that contradictory to Sections of the Constitution of Kenya and the Public Finance Management Act and my good friends can be moved to Kisumu to go and do a report and they sit on what they have found. They bring a substandard recommendation to this Floor so that we can help them approve the substandard recommendation that they have brought to this House.

I think it is high time we talked about the weaknesses of the Executive and the CECM Finance. It is high time after approving or adopting the report, the committee came up with a substantive Motion to compel and send packing the CECM for finance if they are serious with Siaya.

Hon. Deputy Speaker: Hon. Murray, do you have something to say?

Hon. Asewe: No, Mr. Deputy Speaker, I am just enjoying the contributions from Hon. Elisha.

Hon. Deputy Speaker: Okay, Hon. Elisha, proceed!

Hon. Owii: Point of order Mr. Deputy Speaker.

Hon. Deputy Speaker: Hon. Owii!

Hon. Owii: Thank you, Mr. Deputy Speaker, Sir. We are really getting more confused simply because of the way he is contributing here. He talks of very good brains that are in that particular Committee and he really applauded them, now these are the same characters that are

sitting on information that they would have given us here and giving us what is raw as he is putting it. We are getting more confused, please give direction!

Hon. Deputy Speaker: You know at some point, Hon. Elisha I think was moving his own Motion. You could find that there was a report that he was trying to put across where he is the chairman, the vice but after I had stopped him from that he has now turned to the report we are discussing. So, if you were keen, I think you could make that observation. Otherwise, let us give him time to finish his contributions. You are left with one minute!

Hon. Okuku: When you look at recommendation number 2, the Committee is telling us that for this Assembly to keep a close eye on the revenue collection in this County and that the County is --- revenue from the National Government, this Committee recommends that within 3 weeks, the County Revenue Department should submit to this Assembly revenue collection enhancement strategy for consideration. Similarly on the revenue collection, this Assembly should be given by the County Revenue Department, a report on the revenue automation pilot project that was to be implemented during the FY2013/2014.

We are approaching and we have begun 2016 and in Siaya we are still talking about the FY2013/2014 which term has been completed and the contractors have not been paid and some contractors have not started yet and we are closing the term of 5 years (one term) and this Committee cannot push and compel the CECM or put a strong mechanism which can ensure that the FY2013/2014 projects are concluded.

I therefore say that this Committee needs to pull up their socks; I also recommend that they should not rely on the finances from the Executive

Hon. Muhulah: Point of order!

Hon. Deputy Speaker: What is your point of order, Hon. Muhulah?

Hon. Muhulah: Hon. Speaker, I want to inform my very good friend and in-law that the Committee only recommends, the Committee does not implement and the only thing that this House does is to inform the intention to the Executive and leaves the Executive to implement what they have recommended. We cannot go pull or force the Executive, we can only recommend to the Executive.

Hon. Deputy Speaker: Thank you, for the point of information. Any other contributions? Hon. Apiyo!

Hon. Apiyo: Thank you, Mr. Deputy Speaker. Allow me to submit my contributions to this Hon. House this afternoon. My first point goes to the Committee findings. Number one; the first quarter that is ending 30th September 2015 has not been published which is not proper contrary to Section 166 Cap 4c of the Public Finance Management Act 2012. It is spelt out that not later than one month after end of each quarter. In this regard, this is where we start having our problems. Why will somebody have this important document without publication? This is where you realize that my key issues which I had also raised concerning the budget.

I also even convinced, I tried to tell one of my colleagues Hon. Oriaro that as per our budget from our respective Wards, even where you are seated, if you go and check your records, what your people had proposed in the budget was changed. Indeed, they never forwarded

this to the budget controller on what we had passed here. I would request, with the authority of this Hon. House that we should look/check the budget which was forwarded.

The County Government needs to improve the local revenue. If you look at what we are getting from the exchequer and you see how much is being spent out, more than what was allocated, where are they getting these monies? Either they are pretending that they are using these monies and some few individuals can pocket these monies that we have brought down to our people to use. There was a general decline, that is Kshs. 6.9million that was the same period 2014/2015, this was spelt out with the Committee is a clear indication that the County Government could rely too much on the exchequer hence reluctant on revenue collection. I mentioned about our County Government having a proper channel of collecting from local revenues from local people by improving the services to the people.

There was also the issue of roads, transport sector which was Kshs. 12.7million more than the funds released from the sector. Indeed, this is where the rains started beating us. How could you spend more than what you were given? Where did you get this money from? I conquer with my fellow Member, Hon. Muhulah who did mention that soon he is coming up with a statement before the Floor that there are some funds that are going to individual's pockets. We have more than enough evidence.

Hon. Deputy Speaker: We know those evidence, can you lay them on the Floor?

Hon. Apiyo: I was giving my submissions; we shall lay them on the Floor. Lastly, on number 7 on Committee

findings that the Report doesn't give the evidence of the projects which have been funded using ex chequer's' release. In deed we have not seen the projects here as mentioned by the Committee and so this is a good example that either there are some funds being misused out there.

If you cannot mention even one single project then you won't explain yourself that you have used such an amount doing this project. I would recommend in the annexures that the Committee attached; that the annexures are three. The Executive and the Assembly, if you look at the allocation and what we are spending and what the Executive is spending and by that time they gave their Report you would see that it has not been filled in. I don't know the meaning of this; they couldn't explain either how they have spent the money.

How would they operate without money here? This is why we are seeing that our Executive Members either there are some monies meant for the project and these people are trying to use without using whatever we have allocated for the Kshs. 44, 479,000. In the month of September 2015, they have never used any single cent. My question is how were they operating without using the allocation which was given to them by ex-checker? I stand to support this Report, thank you.

Deputy Speaker: In the absence of more contributions, I will call upon the Mover to reply.

Hon. Odinga: Thank you, Mr. Deputy Speaker, Sir, once again I want to thank my colleagues for their contributions which I find to be both positive and negative but that is the spirit of debate. I want to start by asking the question that why quarterly reports? These quarterly reports are just informative and that is why

as a Committee when we bring a report to this Assembly, this is the oversight side of it. That between the first 3 months of the financial year between Julys up to end of September; what transpired in terms of financial operations of the County Government of Siaya and where I need to make a clarification is that this Report is both for the Assembly and Executive.

If you look at even page 7, there is a mention of the County Assembly absorbing 53% and if you look at the annexures also. Annexure no.3, the first consumer is the County Assembly; it's a comprehensive quarterly financial Report which is for both County Executive and County Assembly. I don't want to take much of Members time, as you can see the direction is that as some maybe do not understand generally, this is information we are giving the County Assembly that between this period and this period this is what was collected, this is what was spent, how it was spent and even the absorption rate.

Hon. Oriaro said that we should apply draconian rule and evidently draconian rule cannot be applied no and this time and this is why our first recommendation; According to section 166 (4), when we were interrogating these people, they were saying that they have the County Website and that whenever they produce these Reports, they normally upload the same Reports to the website but now we are saying that we need to bring the attention to the public that as at this period you have done this Report and the same will be uploaded in the website. This will ensure that this will bring the attention of other Members who maybe are not informed to the existence of website but now there is a quarterly Report on such a Report which needs their attention. Hon.

Okuku started by praising us but in the course of praising I don't know what happened.

I don't know whether he started by praising and then later on he wanted to hammer us but I wish to say that as a Committee we also need some respect because you cannot start by telling a child that he/she is ready and then by the end maybe the results are negative. What we are bringing is just information to the County Assembly and then we also know that we have other Committees that immediately after adoption of such Reports then they'll pick up on the implementation part of it but in our County Assembly of Siaya we have the Implementation Committee which we believe that after this they can now pick up with the relevant Executive wing and then ensure that whatever we've adopted are implemented.

There is a proposal that we should have written a Motion to sack somebody, I'm saying that as a Committee we feel that there are also some other agencies like say the Auditor General office whereby if this information; we know that this will come inform of a Report and actually there is a wrong which was Committed somewhere then based on that Report it will still come to this Assembly through the PIC/PAC Committee whereby such Motions maybe can arise but at this juncture you are giving information or you bend information on how the County or public monies were spent in the first quarter. As I said earlier, I wish to call upon Members that truly whatever we are putting here, in this Report and we went ahead and attached annexures giving proof that actually if it's in terms of revenue this is what was collected, if its expenditure both recurrent and development, we are

giving evidences that is coming right from the Executive.

We also say that if you look at this Report, if they are saying it is a standard Report that even in other commissions like COB, this is the kind of Report that they are saying they receive. We are also saying that we need to get supporting documents especially at Committee level when you are discussing this so that when we come here we can also attach those ones as annexures.

With those few remarks I believe that the Committee did its job in bringing to the attention of this House what has transpired and we believe that in the next Report we will also do the same as we've been doing and for Members who may not understand, I call upon them because this is not ending today, still we will have Reports and still Members can read and maybe raise issues later. Otherwise, I call upon Members to support so that we move forward, thank you.

Hon. Deputy Speaker: Yes, Thank you. I'm not making any contributions but I have a concern as the Speaker, when one Member talked of the Assembly I think I told him that this Report is basically talking about the Executive and if you go through the Report it is clear that most of the things only talk about the Executive. You don't need a toothpick to comb the Report to see where it's indicated Assembly that is when you believe that it's touching on the Assembly also. I think you were so brief on the issues touching the Assembly so next time I think we need also to capture the Assembly issues so that when Members discuss they discuss a document that is touching on both sides and that is the only concern that I have. Hon.

Members at this point allow me to put the question.

(Question put and agreed to)

Hon. Deputy Speaker: Hon. Members, we have another Report that will be laid and a Notice of Motion was given but the debate has been deferred to tomorrow. Is that the position Hon. Odinga because you Vice indicated so.

Hon. Odinga: Yes, Hon. Deputy Speaker, Sir, we had given a Notice of Motion but we had not Moved a Motion because according to the Order paper its number 9 but if you direct so then that is how it will be.

Hon. Deputy Speaker: But it's your Vice that indicated to me that we will debate it tomorrow.

Hon. Odinga: I want to seek from you if you can allow me Move and if Members are okay with that, we can Move and maybe a question will be proposed then tomorrow we start by debating or if it's not possible because tomorrow also we are having another Report.

Hon. Deputy Speaker: You can go on and Move the Motion.

Hon. Odinga: Thank you once again, Mr. Deputy Speaker, Sir---

Hon. Okuku: Point of Order!

Hon. Deputy Speaker: What is your point of Order, Hon. Okuku?

Hon. Okuku: Is it in Order for us to transact business even though we don't have quorum?

Hon. Deputy Speaker: Clerk, do we have quorum?

(The Clerk-At-The-Table confirmed the lack of quorum)

ADJOURNMENT

Hon. Deputy Speaker: For that case, we cannot transact the Assembly business when there is no quorum, Hon.

Okuku, you are in order. Due to lack of quorum, the House adjourns until tomorrow 2.30 p.m.

The House rose at 3.53 p.m.

THURSDAY, 17TH MARCH, 2016

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

[The Temporary Speaker (Hon. Abayo) in the Chair]

PRAYER**QUORUM CALL AT THE
COMMENCEMENT OF SITTING**

The Temporary Speaker (Hon. Abayo): Hon. Members, Standing Order No.31 (1) says that a quorum of the House or of a Committee of the whole House shall not be less than a third of its Members; from the look of things, we don't have quorum and I order that the bell be rung for five minutes.

(The Quorum Bell was rung)

(Loud consultations)

(Several Hon. Members walked into the House)

The Temporary Speaker (Hon. Abayo): We still don't have quorum. Serjeant-at-Arms, kindly ring the Bell for another five minutes.

(The Quorum Bell was rung)

(Loud consultations)

(Several Hon. Members walked into the House)

(Quorum confirmed)

PAPER

Hon. Osuri: Mr. Temporary Speaker, Sir, on behalf of the Committee on Public Administration and Governance, allow me to lay the following document on the Table of this House:

Report on the Assessment of the Administrative Capacity of the Sub-County Administration and its Effectiveness in the Decentralization of Devolved Functions.

(Hon. Osuri laid the document on the Table of the House)

NOTICE OF MOTION**REPORT ON THE ASSESSMENT OF
THE ADMINISTRATIVE CAPACITY OF THE
SUB-COUNTY ADMINISTRATION**

Hon. Osuri: Thank you once again, Mr. Temporary Speaker, Sir. On behalf of the Committee on Public Administration and Governance, I wish to give notice of the following Motion:

THAT, this House adopts the Committee Report on the Assessment of the Administrative Capacity of the Sub-County Administration and its effectiveness in the Decentralization of Devolved Functions

STATEMENTS

Hon. Ogutu: Thank you, Mr. Temporary Speaker, Sir...

The Temporary Speaker (Hon. Abayo): Hold on, please take your seat, Hon. Rosemary!

(Hon. Ogutu took her seat)

Hon. Members, I have looked at this Statement and I would like to defer it

so that consultation takes place between the author and the leadership and see what would be our next step moving forward. So, I want to ask that we defer it to the next Siting of the House as we consult on it. Next Order!

MOTION

REPORT ON THE ASSESSMENT OF THE ADMINISTRATIVE CAPACITY OF THE SUB-COUNTY ADMINISTRATION

Hon. Osuri: Thank you once again, Mr. Temporary Speaker, Sir. On behalf of the Committee on Public Administration and Governance, I wish to move the following Motion:

THAT, this House adopts the Committee Report on the Assessment of the Administrative Capacity of the Sub-County Administration and its Effectiveness in the Decentralization of Devolved Functions

I call upon Hon. James Munda to second.

Hon. Munda: Seconded.

(Question proposed)

Hon. Osuri: Mr. Temporary Speaker, Sir, the Committee on Governance and Administration has the honor and privilege to present the Report on Assessment of the Administrative Capacity of the Sub-County Administration and its Effectiveness in the Decentralization of Devolved Functions pursuant to Standing Order 192 (5) (e) and (g).

Introduction

Mr. Temporary Speaker, Sir, the Committee of Governance and Administration, in execution of its mandate which grants it authority to oversight the Executive as provided for in Standing Order 192 (5) (a), (b), (d), (e) and

(g) assessed the administrative capacity of the Sub-County Administration and its effectiveness in the decentralization of devolved functions and wrote this Report between 4th and 6th November, 2015 at Miriam House Hotel, Kisumu.

As a matter of procedure and methodology for investigations granted by Article 35 and 195 and Part Two of the Fourth Schedule of the Constitution of Kenya and Standing Order 172 and 192 and the Second Schedule of the Standing Orders of this House, the Committee wishes to inform that with respect to Standing Order 41(e), the Committee requested the CEC Member for Governance and Administration through the Interim County Secretary to furnish the Committee with report on the status of Sub-County Administration, specifically the progress it had made since the recruitment of the Ward Administrators in April, 2015, following intense pressure by the Committee after unusual delay by the Public Service Board and political interference by the Executive. Under Standing Order 41(d)(3) (b), the Committee on Governance and Administration considered the matter.

Mr. Temporary Speaker, Sir, given the inadequate and unsatisfactory report by the CEC Member, the Committee on Governance and Administration sought resolution of the Liaison Committee which authorized it to undertake a visit of all the six sub-counties namely; Rarieda, Bondo, Alego Usonga, Ugunja, Gem and Ugenya to assess the situation guided by the objectives outline a section below. This was done from 26th to 28th October, 2015.

Mandate of the Committee

Mr. Temporary Speaker, Sir, the Committee on Governance and Administration is Created by Standing Order 192 read together with the Second Schedule of the Standing Orders and had mandate over and including but not limited to:

“Ensuring and coordinating participation of communities and wards in governance at local level, assisting communities and locations to develop administrative capacity for the effective exercise of the functions and powers and public participation in governance at the local level”.

Furthermore, it is within the mandate of the Committee to ensure the fulfillment of Article 176 (2) of the Constitution which states that, “Every county government shall decentralize its functions and the provision of its services to the extent that is efficient and practicable to do so.”

5.1. Membership

Mr. Temporary Speaker, Sir, the Committee comprises 11 Members:

1. The Hon. Joseph Awuor, MCA
- Chairperson
2. The Hon. Joshua Osuri, MCA
- Vice Chairperson
3. Hon. Peter Muhulah, MCA
- Member
4. The Hon. James Munda, MCA
- Member
5. The Hon. Fred Ouda, MCA
- Member

6. The Hon. Nicholas Aneme, MCA
- Member

7. The Hon. Mary C. Ajwang, MCA
- Member

8. The Hon. Angeline A. Odhiambo, MCA - Member

9. The Hon. Anastasia Augo, MCA
- Member

10. The Hon. Selah Okwako, MCA
- Member

11. The Hon. Kesia Siwa, MCA
- Member

5.2. Terms of Reference/Guidelines

Mr. Temporary Speaker, Sir, this Committee was:

7. To seek response from the Executive from which The Hon. Kadera sought information on the terms of appointment of the Members of the Board and their current remunerations;
8. To elicit rebuts from the Siaya County Public Service Board and;
9. To report back to the Assembly the findings thereof as to the terms of appointment and current remuneration for the Members of the Board, in due time with;
10. Feasible recommendations in regard to the matter(s) in questions

6.0. Proceedings**6.1. Meetings**

Mr. Temporary Speaker, Sir, there were 14 meetings on this matter. Three before the visits, six during the field visits, one on the sidelines of the

Benchmarking Visit in Kwale on Village Units with the CEC Member for Governance Hon. George Okello, and four during the report-writing exercise at Miriam House Hotel, Kisumu.

6.2. Procedure Adopted for Evidence Gathering

The Committee sought written submissions from the CEC Member to be submitted to it through the Office of the Assembly Clerk and after which the witnesses would be invited to be in-attendance in its Sittings to further enlighten the Committee on certain issues based on the Statement, the written response and questions arising there from. Evidentiary documents were Tabled and considered by the Committee.

6.2.1. Presentations and Rebutals

The Committee, acting as the arbiter, gave the respondents ample time to present their written submissions out of which Members asked questions and raised certain concerns within the subject matter in plenary. The Chair usually gave the Board and equal opportunity to present their case in verification or counter-reaction to the submission by the CEC Member. The Chair would allow Members to ask further questions based on the presentations. The Questions put were relevant; all ground rules for evidence taking were observed.

Summaries of the written submissions were made and specific questions seeking to elicit information/answers to the concerns raised by the Committee in the interest of the people of Siaya. Relevant sections of the law: the Constitution, the County Governments Act No. 17 of 2012, the Standing Orders and other relevant

documents such as the Strategic Plan, and the Executive Order were referred to. The Committee Clerk usually recorded the proceedings of the Sittings and prepared minutes highlighting findings.

The main respondents were:

2. The County Executive Committee Member (CECM) for Governance & Administration (incumbent Mr. George Okello) on behalf of the County Executive with the Chief Officer Mr. Amos Okello and Mr. Peter Asuke, Director in the Department of Governance & Administration were actually and potentially answerable.
3. The Sub-County Administrator and Ward Administrators in each Sub-County were actually and potentially answerable.

7.0. Findings

In order to arrive at valid and reliable findings, the Committee conducted meetings according to the Standings Orders, the Constitution and parliamentary procedures and practices.

Key findings from the analyses were:

1. The Administrative capacities of the Sub-County Administration in all the six Sub-Counties were generally poor. They lacked requisite working tools and equipment ranging from:
 - Inadequate office space and lack of them in the Wards in the case of Ward Administrators unless some of them were hosted by the respective Elected Members of the County Assembly;

- Lack of basic and requisite office furniture, stationery and machines;
 - Lack of on-job training;
 - Lack of transport facilities e.g. vehicles or even bicycles;
 - Lack of communication devices and airtime;
 - Lack of support staff in most of the offices the Committee visited
2. The Sub-County Administration in the six Sub-Counties had barely made any progress since their operationalization. They were impaired therefore could not effectively, efficiently and responsively perform their functions and provide devolved services due to:
 - A significant aspect of centralization of administrative decision at the headquarters, anti-devolution of decision making and finances and anti-decentralization of services to the grassroots.
 3. The Committee noted that there was lack of and/ or ignorance of requisite policies, and plans by the CEC Member, Chief Officer and Director, needed for effective, efficient and responsive execution of the duties and responsibilities of the Sub-County and Ward Administrators;
 4. The Sub-County Administrators were assigned responsibility over the supervision and remission of revenue and had actually tried to work towards improvement in revenue collection in the County. However, they were not well trained on public finance and were not facilitated enough to handle the revenue collected.
 5. The Committee noted that the revenue collectors were not yet equipped with ETR machines for documentation and receipting during revenue collection yet these were budgetted for.
 6. The Sub-County Administration is riddled with a plethora of challenges and discouraging experience most of which have been highlighted in 1 and 2 above.

8.0. Conclusions

In view of the entire data presented in the previous chapter, the Committee concluded that the assessment of the administrative capacity of the sub-county administration and its effectiveness in the decentralization of devolved functions, enhancement of the participation of the citizens and identification of challenges the system faced was very essential. The Committee noted poor capacities and poor performance of the Sub-County Administration. The research actually enhanced the knowledge of the Committee on issues of administration from a practical local viewpoint and built its capacity to engage on issues to do with further

devolution as provided for in Article 176 (2) of the Constitution, Section 48(1)(d), 48(3) and (4) of the County Governments Act No 17 of 2012. In addition, the Committee found out the true status of capacities and performance of the Sub-County Administration against the background of the Constitution, the County Governments Act, 2012 and the Siaya County FY 2015/2016 budget as well as the provisions of the previous accounting period and is more capacitated and informed enough to put to task the Office of the Governor and the County Executive Member for Governance and Administration for the better.

9.0. Recommendations

The most important objective of the assessment made by the Committee was to make feasible recommendations to be implemented by the County Executive Committee on Governance and Administration for quick improvement of the sub-county administration, decentralization of devolved functions and enhancement of the participation by the citizens and responsive service delivery at the grassroots. The Committee therefore made the following recommendations:

1. There is need for the CECM Member for Governance and Administration, the respective Chief Officer and Director to rid themselves of the culture of centralization of administrative decision at the headquarters, anti-devolution of decision making and finances and anti-decentralization of services to the grassroots.

2. The Ward Administrators be given:

- i. Adequate office space in the Wards even if it means renting for them within 60 days from the date of approval of this report;
- (ii) Adequate basic and requisite office furniture, stationery and machines within 60 days from the date of approval of this report;;

1. The CEC Member, Chief Officer and Director for Governance and Administration must each, ensure that all the moneys allocated for the operations of the Sub-County Administration are released to the Sub-County Administrators and Ward Administrators each, for their operations, all for the past two quarters. This be done by 31st December 2015.
3. The Director in charge of Administration to organize on-job training and capacity building activities at least once in 90 days beginning 30 days from the date of adoption of this report;
4. Sub-County Administrators, and for the use of Ward

- Administrators based on need in the meantime awaiting their own, be procured for, vehicles as provided for in the budget not later than 60 days from the date of adoption of this report;
5. The Executive Committee Member for Governance and Administration and the Chief Officer to move with speed to ensure all requisite policies, and plans needed for effective, efficient and responsive execution of the duties and responsibilities of the Sub-County and Ward Administrators are fast tracked within 60 days from the date of adoption of this Report;
 6. The CEC Member for Governance and the Chief Officer in charge to liaise with the respective CEC(s) and Chief Officer so that the Sub-County Administrators and Ward Administrators are well trained on public finance and are facilitated enough to handle the revenue collected.
 7. The Sub-County Administrators and the Ward Administrators each to be sent a secretary and senior support staff to assist them in their day-to-day operations within 60 days from date of adoption of this report.
 8. The CEC Member and the Chief Officer to liaise with the CEC Member and Chief Officer for Finance and ensure the revenue officers are equipped with ETR kits within 60 days from the date of adoption of this report.

That the recommendations of this report must be implemented within the stated timeframes failure to which the respective CEC Member and Chief Officer and any other officer directly responsible will be held accountable by this House.

Submission

On behalf of the Committee, and pursuant to Standing Order 192 (5) (d) and (f), it is my pleasant duty to Table in this Assembly, the Report on Assessment of the Administrative Capacity of the Sub-County Administration and Its Effectiveness in the Decentralization of Devolved Functions, this 2nd day of December, 2015, and urge that the Report be Adopted by this Honorable Assembly.

Mr. Temporary Speaker, Sir, in the interest of time, I would skip to page 42. Members can go through the other parts on their own.

CHAPTER FOUR

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

4.1.Introduction

4.2.Summary of Key Findings

Key findings from the analyses were:

1. The Administrative capacities of the Sub-County Administration in all the six Sub-Counties were generally poor. They lacked requisite working tools and equipment ranging from:

- Inadequate office space and lack of them in the Wards in the case of Ward Administrators unless some of them were hosted by the respective Elected Members of the County Assembly;
 - Lack of basic and requisite office furniture, stationery and machines;
 - Lack of on-job training;
 - Lack of transport facilities e.g. vehicles or even bicycles;
 - Lack of communication devices and airtime;
 - Lack of support staff in most of the offices the Committee visited
2. The Sub-County Administration in the six Sub-Counties had barely made any progress since their operationalization. They were impaired therefore could not effectively, efficiently and responsively perform their functions and provide devolved services due to:
 - A significant aspect of centralization of administrative decision at the headquarters, anti-devolution of decision making and finances and anti-decentralization of services to the grassroots.
 3. The Committee noted that there was lack of and/ or ignorance of requisite policies, and plans by the CEC Member, Chief Officer and Director, needed for effective, efficient and responsive execution of the duties and responsibilities of the Sub-County and Ward Administrators;
 4. The Sub-County Administrators were assigned responsibility over the supervision and remission of revenue and had actually tried to work towards improvement in revenue collection in the County. However, they were not well trained on public finance and were not facilitated enough to handle the revenue collected.
 5. The Committee noted that the revenue collectors were not yet equipped with ETR machines for documentation and receipting during revenue collection yet these were budgetted for.
 6. The Sub-County Administrators and Ward Administrators did not have money despite the budgetary allocations for their function, to execute the more than enough duties and responsibilities they were expected to undertake, not even petty cash for basic operations.
 7. The Sub-County Administration is riddled with a plethora of challenges and discouraging experience most of which have been highlighted in 1 and 2 above.

4.3. Conclusions

In view of the entire data presented in the previous chapter, the Committee concluded that the assessment of the administrative capacity of the sub-county administration and its effectiveness in the decentralization of devolved functions, enhancement of the participation of the citizens and identification of challenges the system faced was very essential. The Committee noted poor capacities and poor performance of the Sub-County Administration. The research actually enhanced the knowledge of the Committee on issues of administration from a practical local viewpoint and built its capacity to engage on issues to do with further devolution as provided for in Article 176 (2) of the Constitution, Section 48(1)(d), 48(3) and (4) of the County Governments Act No 17 of 2012.

In addition, the Committee found out the true status of capacities and performance of the Sub-County Administration against the background of the Constitution, the County Governments Act, 2012 and the Siaya County FY 2015/2016 budget as well as the provisions of the previous accounting period and is more capacitated and informed enough to put to task the Office of the Governor and the County Executive Member for Governance and Administration for the better.

4.4. Recommendations

The most important objective of the assessment made by the Committee was to make feasible recommendations to be implemented by the County Executive Committee on Governance and Administration for quick improvement of the sub-county administration,

decentralization of devolved functions and enhancement of the participation by the citizens and responsive service delivery at the grassroots. The Committee therefore made the following recommendations:

1. There is need for the CEC Member for Governance and Administration, the respective Chief Officer and Director to rid themselves of the culture of centralization of administrative decision at the headquarters, anti-devolution of decision making and finances and anti-decentralization of services to the grassroots.
2. The Ward Administrators be given:
 - i. Adequate office space in the Wards even if it means renting for them within 60 days from the date of approval of this report;
 - ii. Adequate basic and requisite office furniture, stationery and machines within 60 days from the date of approval of this report;;
3. The CEC Member, Chief Officer and Director for Governance and Administration must each, ensure that all the moneys allocated for the operations of the Sub-County Administration are

released to the Sub-County Administrators and Ward Administrators each, for their operations, all for the past two quarters. This be done by 31st December, 2015.

4. The Director in charge of Administration to organize on-job training and capacity building activities at least once in 90 days beginning 30 days from the date of adoption of this report;
5. Sub-County Administrators, and for the use of Ward Administrators based on need in the meantime awaiting their own, be procured for, vehicles as provided for in the budget not later than 60 days from the date of adoption of this report;
6. The Executive Committee Member for Governance and Administration and the Chief Officer to move with speed to ensure all requisite policies, and plans needed for effective, efficient and responsive execution of the duties and responsibilities of the Sub-County and Ward Administrators are fast tracked within 60 days from the date of adoption of this Report;
7. The CEC Member for Governance and the Chief Officer in charge to liaise

with the respective CEC(s) and Chief Officer so that the Sub-County Administrators and Ward Administrators are well trained on public finance and are facilitated enough to handle the revenue collected.

8. The Sub-County Administrators and the Ward Administrators each to be sent a secretary and senior support staff to assist them in their day-to-day operations within 60 days from date of adoption of this report.
9. The CEC Member and the Chief Officer to liaise with the CEC Member and Chief Officer for Finance and ensure the revenue officers are equipped with ETR kits within 60 days from the date of adoption of this report.
10. That the recommendations of this report MUST be implemented within the stated timeframes failure to which the respective CEC Member and Chief Officer and any other officer directly responsible will be held accountable by this House.

Mr. Temporary Speaker, Sir, the annexures are there and Hon. Members can go through them. Otherwise, I rest my case. Thank you.

Hon. Temporary Speaker: Hon. Muhulah!

Hon. Muhulah: Thank you, Mr. Speaker, Sir. I want to thank the Members of this Committee for highlighting the problem and discomfort that the Sub County Administrators are going through. One of the major responsibilities of the Sub County Administrators is to coordinate the functions of devolved Government including supervision and management of devolved functions in their respective areas.

Number two is the promotion of County Government policies as indicated within this report, the supervision of projects, and the supervision of markets, cleanliness and collection of revenue. Mr. Speaker, I would wish to talk on the issue of the collection of revenue because it is an issue in this County. The creation of platforms for public participation is one of the responsibilities of the Sub County Administrators. In today's newspaper, the issue of revenue collection came out as a very strong thing that will determine the kind of funding the County Governments are going to have.

It is yesterday in this House when we were discussing the Fiscal Strategy Paper, the issue of revenue collection came out very strongly and there was a determination that revenue collection, instead of growing, it was coming down.

Mr. Speaker, we did highlight here that it is going to be a big problem for the County Government when it comes to distribution or allocation of funding from the National Government. It is evident that the County Government of Siaya does not want to follow the policy and principles of devolution by assigning these people who are supposed to be in charge at Sub County their responsibility. Mr. Speaker, a Sub County Administrator is equivalent to a District Commissioner or

Deputy County Commissioner in the present dispensation whose work is to coordinate the internal affairs of the National Government.

The reason I want to equate this position with the DC is to look at the relevant background that these people have in terms of connecting the Governor of the County and the people of the Sub County in their respective County Government. Mr. Speaker, for this person to effectively participate in the responsibility that they have been assigned, this person has to get in touch with the citizenry of the Sub Counties they are heading, which calls for a good mobility.

Mr. Speaker, to date, I am glad that we are also part of the Finance Committee, you know very well that we had already done a budget to ensure that each and every Sub County, Administrator of the Siaya County Government is facilitated by a vehicle to allow them to move effectively and monitor/supervise the works that are done within their Sub County.

To date, Mr. Speaker, we are only three months to the closure of the financial year 2015/2016, no procurement has been done for this plan that had already been concluded almost 8 months ago but to date that not been done!

Mr. Speaker, to date, there are Sub County Administrators that have pathetic offices that cannot even allow them, and worst of all, they have to share offices with the Ward Administrators in their respective Sub County offices. How can we have the promotion to the County Government policies if the people who are supposed to be doing all this cannot even have the dispense to concentrate, that is a question Mr. Speaker? Other responsibilities, is to look at the

performance of the market including the cleanliness and revenue collection. To date, the garbage collection which is supposed to be under a Sub County Administrator is wanting in this County.

The reason is that the devolvement of sectors from the County Government headquarters to Sub County areas has never been done! The supervisor of this Sectoral head is supposed to be the Sub County Administrator. Mr. Speaker, Agriculture is a very important aspect and a very good determination of the development of this County. Most Sub County Administrators do not even know the Agricultural Officers under their Sub County Administration.

On Public Health, the reason cholera recently almost brought in an issue of health impairment in the Sub County of Alego Usonga is that there is no coordination between the Sub County Administrator and the Public Health Officer of the Sub County. That one leaving a vacuum of supervision and the end result is the suffering of the citizenry from the respective Sub Counties.

Mr. Speaker, the public participation is enshrined in the Constitution of the Kenya Government as one of the reasons devolution was brought and that is part of devolution; that people should be given a chance and they can only be given a chance where the person linking them with the Headquarter where the Governor sits is comfortable. This cannot be done because every cry of this County Government is that there is no money.

I want to remind you that about 3 days ago there was a paper that circulated and people have them, these Hon. Members have that paper which shows that the County Government has wasted 75

million shillings for nothing when they cannot facilitate the County Government Administrators. Where are we heading this Government to?

(Applause)

Mr. Speaker, I want to take you again to the issue of enhancement of delivering of services; the enhancement of delivering of services can only come if a Sub County Administrator can be well facilitated with his team; the Ward Administrators. The Sub County Administrator doesn't have any chance or allocation and when the County Government of Siaya is using 12 million for tea, Sub County Administrators are going without any tea and no water in the offices. Mr. Speaker, today, Ukwala as a Sub County under Ugenya, there was no power, water, not even a pen that a Sub County Administrator can use.

Do we want these people to work or we are paying them for free? Another thing that I would have wanted you to look at is the production of copies of the work plan for each and every quarter. As I told you, the facilitation of these noble offices is not there. Today if we were to sit and look for that work plan from the Ward, Sub County Administrators; you will not get because there is one CECM that has been cited in this document and I do not know why this House still fears sending this person home! This person called George Okello of Administration and Governance, this is the person letting people down in this County because the guy wants to hold all the powers, control all the monies that are allocated to Sub Counties; to do everything, Mr. Speaker, Sir. He is supposed to only coordinate and bring policies, he is supposed not to be the prefect that will always monitor, you

monitor without results because you are not sure with results yourself.

Mr. Speaker, for this House to ensure that the County Government of Siaya works very well, I urge this House that let's try it for once that we bring a censorship to send all these CECs home or three to serve as an example so that this County will become effective.

(Applause)

I was looking at the recommendations.

Hon. Temporary Speaker: You have almost spent all your time!

Hon. Muhulah: I am just about to finish, Mr. Temporary Speaker. One minute and I will wind up. Let this House know very well the key duties and responsibilities of Sub County Administrators. I urge this House to adopt this report and ensure that it is effectively put to use so that we can save and encourage our Sub County Administrators. Mr. Speaker, I sit and rest my case by supporting this document.

Hon. Temporary Speaker: Yes, Hon. Augo!

Hon. Augo: Thank you, Mr. Temporary Speaker, for giving me this chance. I would like to commend this Committee for the hard work as a Member. It is surprising, we went round the six Sub Counties and what we found there was alarming. We found that the Sub County Administrators are very learned people. When we went to Rarieda, the office which they were occupying is for a private investor who had assisted them to settle and they had been given a notice to vacate. The electricity was being paid by the CDF which had again given them a notice that the following month, they were not going to receive the payment.

The office was leaking. We found that the revenue which was being collected in Rarieda was not being taken to the bank due to lack of transport, so the revenue collection is stuck there for one week without being banked. We found that the Sub County Officer would even mob the office by herself despite being a senior officer. She did not have the support staff and all was the same in all Sub Counties.

When we went to other Sub Counties, you found that even a pen they buy with own salary. They would buy stationery with their own salary, there was nothing being given to them as administrative fee for use in their offices. It was pathetic as my brother Hon. Member has said and we should act very fast, it is just that this report has reached the House when it's too late, it would have reached here as soon as yesterday.

You would sympathize with our officers whom some of them had left their jobs, attaining Master's Degrees to be a Sub County Administrator. When they are called to come for meetings in the office of the Governor and the CECM called Okello, they would come without transport reimbursement and there is a day when they would be given a form to fill so that they would be given reimbursement but there was nothing done.

The CECM Okello has really mistreated these people, when you are a lady you can see it is written here, even the ladies were not even allowed to go for a short call in a meeting in his office, it is documented here, you will read it. He thinks he is still a DC during the Moi Era where he could dictate and say what he wants. When they are in a meeting, the Sub County Administrators would not be allowed to pick their phone that is the order of the day.

Our Sub County Administrators are suffering, and we demand that the money which is lying, which is being spent in the County here be taken down to the Sub Counties to do the work which was meant for them. These people are earning salaries but doing nothing in the offices; there are no computers in their offices. When you visit their offices, you realize they don't even have power. Mr. Speaker, the Sub County Administrators are suffering! And I would like this House to take this matter very seriously.

We are sympathizing with our people, some of who left their jobs, resigned that they were going to work in Siaya, to build Siaya only to come and be frustrated! I would like this House to adopt this report so that it is implemented, not just adopting it and not being implemented so that the CECM called Okello would know that we are bitter with him for frustrating our people. I rest my case and I support this report.

Hon. Temporary Speaker: Hon. Pamela Ngunjiri!

Hon. Ngunjiri: Thank you, Mr. Temporary Speaker. I stand to support this report and reading through it, you wonder why these Sub County offices were put in place. I had an occasion to visit the offices earlier in the beginning of our term here, I am not a frequent visitor in those offices but I thought those were formative days and that things would be put in place.

When you go through a report like this and you find that nothing, almost nothing at all has improved; that the offices are still as empty as they used to be, that these offices are crying for support staff and none has been employed. Mid last year when the Ward Administrators were employed, they too have complained

of emptiness that they have nothing at all doing in these offices. You go into those offices and it reminds you of the former County Council offices.

I thought devolution came so that our services can be improved but going to those offices and finding the same state of affairs that used to be there when only a little bit of money was sent down by Local Governments to run the County offices then you wonder if we are really improving. If what we have so far is what we are working on, that is the case of improvement, that is the pace at which we are going to enjoy devolution; then I think our own County is really going to be lagged behind and there is a lot to be done.

If this office you have a Sub County Administrator, without even a secretary, she does not have any form of support staff to go for errands. Recently I paid a visit to the Agriculture office when I was enquiring about the tractors and it is embarrassing; it is almost annoying that you go there but can't find anyone to talk to, even to ask when the tractors will be available, where you pay the money for cultivation to be done. Sometimes as you walk in, Mr. Speaker, you meet this one very tired officer leaving the office, it looks as if this person does not know where they are going.

If our people are not treated well, if they are not equipped, this is disaster. We are not going anywhere because we need to have staff that are put there and willing to work and they are facilitated. This issue of Kshs.12 million tea, the last time I checked, and I am very notorious about asking for tea in offices, I asked for tea in those offices and they laughed and said "Tea"? We don't have tea in these offices.

This one very tired officer leaving the office and seemingly doesn't know where they are going. If our people are not treated well, if they are not equipped we are not going to get anywhere because we need to have staff that are willing to work and are facilitated. This issue of Kshs.12million for office tea, the last I checked I hear now the Sub County offices never even have tea but the last time I checked about tea they laughed. They said they don't have tea in their offices, having heard this I went and checked. They said that this money is not kshs.12million. A portion of it is also sent to the Sub County offices so that they can also have their work place look like an office.

These people don't even have transport then what business do they have sitting in those Sub County offices because they are the people who are supposed to go out to the field. The Agricultural officers are supposed to go out to the fields and check that the County is being served well but how do they get to those places?

It is high time we emulated other Counties; how their offices are equipped, facilitated, boost the staff morale; otherwise, we are going to remain a laughing stock, and we are not going to grow and why are we a County? Why do we have these Sub Counties? They are supposed to feed the Sub County and if nothing is happening down at the Sub Counties then definitely nothing will be happening at the County offices.

We need to urge our Executive Officers; the CECMs to make sure that what is to be done at Sub County level are done. Otherwise, we are wasting our time here, no work is done, people are miserable. You go to the far end of this County and women are seated there looking like no food will come to the table.

How are they going to live because the same people who are supposed to go make sure that things are now working well according to the terms of devolution are not equipped to do their work, this is not amusing. I support this Report.

Hon. Ajwang: Thank you, Mr. Temporary Deputy Speaker, Sir; I am a Member of this Committee. As we were going around the Wards, almost all these County Administrators were just having the same problems and I really wonder why they were employed if they can't deliver the services to our people who need the services and that's the reason devolution was brought to us.

They were just complaining about the same things that have been mentioned by Hon. Members Here but one bad thing which was mostly annoying, when you visit these Sub Counties they are very filthy, they mostly didn't have furniture and stationery and the areas where the offices are located are very bushy and you can imagine they have the Sub County and Ward Administrators in those offices. The Executive should provide the Sub County and Ward Administrators the money to run those offices and provide services to the people. I beg the Hon. House to support this Motion, thank you.

Hon. Okite: Asante sana, bwana Spika, kwa kunipa nafasa ili mimi pia niichangie. Ningependa kutoa shukrani zangu kwa wanakamati ambao wamitengeneza Ripoti nzuri. Ugutuzi ilikuwa jambo la maana kwa Wakenya sio kwa watu wa Siaya pekee. Na tulipiga kura iliugutuzi iletwe, na iletwa, na mambo ya ugutuzi ndiyo ilileta hizi nafasi za kazi ili watu wapate kuandikwa. Watu wetu hawaezi kuwa watumwa kwa Kaunti yao kwa sababu tunajua ya kwamba kila kitu ina nafasi yake, kwa hivyo tusipochunga

Kaunti yetu itazama hivi karibuni. Tusipotilia maanani kama wale ambao waliletwa hapa tuwaonyeshe CEC's njia bure tutazama. Mwenye macho haambiwa tazama, itakuwa wakati watu wetu wataamua ya kwamba wao pia waeenda kwa soko zetu kukusanya pesa, wataanza kuwa wezi sababu hawapati chochote na nyakati za kupatia mtu pesa zilipitwa na wakati. Kwa hivyo tunaomba ya kwamba kama watu wetu waliandikwa wapewe nafasi ya kazi. Hatujaona kuwa mtu ameandikwa na hajapatiwa nafasi ya kujua ya kwamba anaenda kufanya nini alafu inatakikana alete ripoti, ataleta ripoti kutoka wapi? Imefika wakati sisi wenyewe itatubudi tuamue na itatubidii kama viongozi kama wale waliletwa watumukiye wakaaji.

Tukitoka hapa tutasema tuliwafanyia nini kwa sababu kuna wengine Gavana aliwaonyesha njia sisi pia kama Waheshimiwa waliochaguliwa na watu itatubidii kuwaonyesha wengine njia na ata tukiwaonyesha na hawazitekeleza haitakuwa jambo la maana. Tutakuwa tunazipita hapa, zinaenda kule na zinatupwa mahali kwa hivyo itatubidii tubadilike. Tumbakisha mwaka mmoja na nusu ndiyo, na sote tutaenda na tutakuwa na jambo la kujibu kwa sababu tunawajua. Watu walikuwa waking'ang'ania kazi na wengine wao sasa wanalina wakisema wakisema wangelijua hawangeacha kazi zao, mahali walikuwa wanaheshimiwa na watu. Nina iunga mkono Ripoti hii, asenti.

Hon. Agoko: Thank you, Mr. Temporary Deputy Speaker, Sir, it is a great concern that we set up the County Government which had established their offices. These offices as constitutionally formed were established by the Constitution and I think in Siaya they were put in place but of course they have not

been operationalized. You look at somebody who has been placed to do revenue collection but their capacity has never been built in terms of revenue collection. They are the co-coordinators of the activities of the functions of County Government at the Sub Counties but their capacities have never been built, they have never been facilitated even to move, they are alone in their offices meaning they have no subordinate, they sweep and mop own offices, if at all there is tea they make it themselves, they are the office messengers, they do everything.

We don't expect such a person, Mr. Speaker, Sir, to deliver any service. Service delivery must be wanting in these offices. And I support all the contents of this Report and that they be implemented because without the implementation of this then the County Government of Siaya will collapse because these are the people on the ground as key implementers and supervisors on the implementation of all the activities done in this Sub County.

Hon. Ngure: Point of Order, Mr. Temporary Deputy Speaker, Sir, if we will have no quorum even temporarily, will we go on or wait for other Members, do we continue or do we wait for our Members who have gone out to come back?

Temporary Deputy Speaker: As you have stated, I shall direct that you continue because we will be assuming they have just gone for a call and they will be back. That be the case if we don't get the quorum that they have left then we will take action as a requirement.

Hon. Awino: Thank you, Mr. Temporary Deputy Speaker, Sir, I think it is really pathetic when you read this Report and feel very discouraged and dishearten, all the things that Kenya fought for and then you are allowed to do them

but they are not being done and one wonders really whether we know what we are doing or not. My only worry is if we have these Sub County Administrators and we don't empower them, we shouldn't expect results. Somebody who is not motivated cannot work, they can only afford to come and sit and wait for the day to end and at the end of the month earn a salary. We would like these Sub County Administrators to be empowered and given the capacity that they require to carry out their duties.

It is true that yesterday we lamented about the revenue collection. Now how do you collect revenue while you are so demotivated and how are we sure that this revenue that you are collecting is safe? Somebody who is so demotivated and doesn't see the future and then you have all these monies with you, who knows whether you are going to bank it all? I think we have to give these people the respect that they deserve and it should start with the office of the CECM Governance and if he doesn't want to behave, why don't we have a meeting with him here with the Committee of the Whole House and we read to him the Riot Act because they cannot afford to behave like Colonial Governors and what have you.

We are in an enlightened World and we need to behave well but apparently in Siaya, people don't even know what they are doing and I don't know what we are going to tell the people one year from now, that this is what we did. Yes, we are supposed to oversight but what have we done with that oversight authority that we are given? We have the authority to do something, we have not done it.

Now if these people don't want to change, then I think we need to act one of these days so that people know that we are

here. Otherwise, they will say that we are just the same things or we slept on the same bed with them so do not oppose them. We couldn't do anything for the sake of our people. So if our revenue is supposed to go back, these people be accorded their respect. Let them be given these offices we are talking about and so forth and now we also our Ward Administrator, if the Sub County Administrator have no respect I wonder how it is with the Ward Administrators who are the equivalent of the old District officers.

These people are being treated as if they are some useless hooligans. Surely, somebody should know that these are human beings; I have so much seen this kind of casual treatment of people and even as a person when I am in this Assembly I look around and I ask myself; are these people educated because educated people know how to handle other people. If you have gone to school, use that knowledge that you were given to serve humanity but don't just treat them like they are servants or slaves.

Let people be respected and I think 60days is too long and the period should be shortened, for the budget we passed, it then the supplementary, we put aside money for the purchase of vehicles but they haven't been purchased, they may never be purchased, now what are we supposed to do? We should send somebody home and I think things will change, thank you.

Hon. Munda: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to add my voice on this Report. These people deliver a lot of services to our Wards and the Sub Counties that is the Sub County and the Ward Administrators.

Like in the case of Ward Administrators, these people are the ones who go round the Wards to check on the projects and also doing the site visits but when they go to do their duties, they are not facilitated. This is serious and should be taken just the way the Report puts it. It is very important and we have to value their duties, so something should be done about it.

On the issue of revenue collection, it is true that these people get a lot of problems because they lack mobility. There are no vehicles in the Sub Counties and sometimes they just go on foot. Even going to the banks with that money is not easy and they can even be robbed.

As the Report puts it, the issues raised here are very important and should be implemented. Implementation will make the County move forward and our supporters will be put on the right track. I support the Report. Thank you.

The Temporary Deputy Speaker
(Hon. Abayo): Yes, Hon. Angul.

Hon. Angul: Thank you, Mr. Temporary Deputy Speaker, Sir; I also want to add my voice on this issue. Surely we have started the 4th year, if we cannot act then it means we are not doing our oversight duty. The CECM of Governance is a very arrogant, even if you call him for interrogation he will not come. I think he is taking advantage because he is being shielded by our CEO, so nothing can happen to him.

I will give you an example; I do not know whether the recommendations you are giving just end here and are not taken to the Executive for jurisdiction. It is a very bad habit that even when we were interrogating the PIC and PAC of 2013/2014 we called the officer but he could not come for the interrogation. We

also made a recommendation that the officer be suspended. It is over 6 months now but nothing has happened. So we don't know whether the Clerk's office is not forwarding the memo to the Executive but it is a very bad habit; something should be done.

If we do not act as the Assembly then things are going to go haywire. I don't know if the officer feels as if he is a DC so he cannot be called by MCA Committees.

In the case of Rarieda Sub County, there is no office there as others have said. It is true that they went to our Sub County of Rarieda and other Sub Counties and saw this. It is one single office with 5 Ward Administrators and that is where the revenue collectors also take money. Mrs. Opondo who was there used to mop the office by herself she has since been transferred to Ugunja. Other Sub Counties have other supporting staff, like Bondo which has about 21 while Rarieda doesn't have any.

I don't know what the CECM Governance is doing and whether he is observing that. Something should be done especially by this Assembly. Like now, Committee on Governance and Administration has made recommendations. Are they going to act and here in the Assembly they should be acted on after some period but if that period elapses what do we do?

Just as other colleagues have said, we have seen money being squandered left and right. I also happened to get a paper today the one that was circulated about Kshs. 77 million has been squandered, people are taking imprest and we do not know why the imprest is so much.

I wish to rest my case but something should be done. Thank you.

The Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. Rosemary Ogutu!

Hon. Ogutu: Thank you, Mr. Temporary Deputy Speaker, Sir, I just want to add my voice in supporting this Committee for a good work done though most of the issues have been tackled by fellow colleagues. Mine is to only urge this House which has got powers more like the same of the High Court to discharge this duty in this House.

The so called CECMs do come here and tell us a lot of lies and also waste a lot of our time. Today we had one of Agriculture and he told us how the tractors are doing so well. I went to the ground this afternoon only for an old *mzee* to tell me that he paid for the tractor services a month ago but he has never seen one yet we take 5 hours with them in the Board room telling us things they don't want.

On the issue of Governance, there is Mr. K'Odindo, a County Administrator who used to be a Clerk here. I think these offices were in the former County Council Offices. K'Odindo used to sit in the Clerk's office but today he sits in a hall, which Mr. Ojwang' started building in Ugunja with a table and a chair and we expect him to deliver to Siaya County.

The so called Administrators have been totally demoralized and the only time they are felt is when the Governor is in a Sub County only to be stood up most of the time to be given orders like the days of Moi era which are long gone.

I also wish to say it on this House that our activities are also hindered when these people are not empowered. We go for public participation which is advertised over the radios and newspapers but we know that the Administrators are also supposed to tell the people but they are

handicapped so they can't. Last time when we were in Sidindi, the Administrators told us that they can't run and they can't use a bicycle to go down and tell the people to come. I am handicapped so when you do not find so many people here, know that I tried my best but I couldn't do more than this.

What I can say is that one of these fine days somebody should be shown the door so that they can give a good example to others. I think the CECMs think that we don't have the capacity and they don't see us as people with power of oversight. They think that we are so illiterate that we can't take somebody home. I think that one of these fine days we should just execute our power so that they know that they are dealing with the Siaya citizens headed by the Assembly and the Executive. I rest my case.

The Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. Aneme!

Hon. Aneme: Thank you, Mr.

Temporary Deputy Speaker, Sir, for giving me this opportunity. I am a member of this Committee and we were expecting the force of this House to help us push it to be implemented.

If you look at the latitude of the Executive, particularly the Department of Governance and Administration these are people who are used to force. I can remember initially after doing the interview, the Letters of Appointment were kept somewhere for 2 months and our committee insisted and summoned the CECM Governance in this Assembly where we compelled them and we gave them 40 days to issue the letters of Appointment for these people. It is as a result of that is when these people were hired and since then if you look at our officers I call then so because those were

people who were not called as a by the way. These were principles of schools, and officers in the Government and when you look at how our brothers and sisters are walking around in the corridors, markets and other places like the *chief's barazas* and somebody tells you that that is the Administrator, you really sympathize.

I believe that if I look at the genesis of the whole issue, these are people that our Committee of Governance and the entire Executive did want to hire properly because it is here in this House that a list was given to us whereby another group of 30 people were supposed to be employed who did not even attend the interview as opposed to people who did the interview and their score sheets were there.

We forced these people to give us the reason as to why they are keeping it and that is when they came up with the list and they pleaded with us that it is the Governor who gave them another list and told them to shelve the other list so that they give the appointment letters to people who are their friends. From the initial stage these are the people that the Government did not want to hire probably because they were taking the chances that they were thinking would give their relatives.

I am requesting that we come out and do things practically by compelling these people. I like using the word 'compelling'. If you do not give force to some of these things whatever we are discussing here will just be kept in the shelves. I have never seen the Executive implementing anything from this Assembly and imagine if we are talking and they are not doing anything then in another way we are like them because there is nothing taking place and our talks

are useless to them. So sometimes we should also change the tactics.

I wanted to plead with the House that we act tough to summon the CEC Governance in this House to meet the Committee of the whole House so that he answers these questions. Although we said there are 6 days but when you look at the way our brothers run in the field you feel this is too much and again they are going to keep quiet over this Report for 6 days so before even the 6 days elapse let us compel them to come here so that they come and answer this questions one after the other and we see if there is any change that can make these people become effective in doing their services. Thank you.

The Temporary Deputy Speaker
(Hon. Abayo): Hon. Members since there are no other submissions I want to invite the Mover to reply.

Hon. Awuor: Thank you, Mr. Speaker, Sir, on behalf of the Committee on Governance and Administration I want to take this opportunity to thank Hon. Members for their contribution in support of this Report.

It is true as has been observed that particularly on transport and communication the essence of devolution is to take services closer to the people but we are seeing a situation whereby we have staff that cannot reach the people on the ground probably because they do not have means of transport simply because they cannot communicate with them because even the airtime they are not given simply because they do not have the papers to write a memo to them. It is a pathetic situation as has been observed by Hon. Members.

As has been rightly put it is true that it is high time you took action on these members particularly CECM Governance,

he has to be told that we need action to be taken so that the services can be given to the people. Otherwise our people of Siaya will continue to suffer because even these Administrators we expect that if they are given adequate staff they will be able even to supervise the cleanliness of our markets where if not clean we are likely to as we have seen in the past to get outbreaks of diseases like cholera.

I hope that the House will adopt this Report otherwise thank you.

(Question put and agreed to)

(Applause)

The Temporary Deputy Speaker

(Hon. Abayo): Just to make a comment on this particular Motion a lot has been said and the Chair gets the spirit that this House is declaring that it does not have the capacity and everybody is pleading. I wish to state that all that goes through this House, the Committee of Implementation needs to make timely follow up to make sure that everything is implemented.

Many are talking about censor motion this did not come as part of recommendation and if there is anything that this House would procedurally take then it must be part of proceedings unless you are bringing in a different Motion in that regard. I believe most of these Committees have had time to interact with the CEC's mentioned in this particular Floor of the House that that would have been an opportunity to heavily engage.

Lastly is the issue of facilitation and I want to believe that this same committee and the members are in this House and the requisite tools support that are envisaged or heavily mentioned in this Report should actually be addressed in the

budget process that we are talking about today. Thank you.

ADJOURNMENT

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Members, having exhausted the agenda on the Order Paper, this House stands adjourned until next week Tuesday, 22nd March, 2016 at 2.30 p.m.

The House rose at 4.26 p.m.

TUESDAY, 22ND MARCH, 2016

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

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

PRAYER**COMMUNICATION FROM THE CHAIR**

Hon. Speaker: Hon. Members, I wish to communicate the following:

1. That soon after our plenary we have an informal meeting in the Chambers to discuss with the Budget and Appropriations Committee the fate of amendments on the Fiscal Strategy Paper on how they are going to put in it the Ward Development Fund and any other activities which Sectoral Committees feel need to be included on matters that have been passed by resolutions of reports of this House accordingly.

2. On the 28th of this month, the family of the late Hon. Benson Omondi will be having an anniversary and I will be going there personally, to be with the family and any of us who have free time, it will be a good re-union with the family, just share with them and leave so that they know that the late Benson still lives in our midst.

Next order!

STATEMENTS

Hon. Speaker: Hon. Members, last week we did not read out the plan of activities we have for the week and you will allow the Majority Leader to take us through what we have this week and next week. Yes, Hon. Majority Leader!

Hon. Otieno: Thank you, Mr. Speaker. Allow me to take the House through the tentative business for Tuesday, 22 March to Thursday March 31, 2016, published pursuant to Standing Order 36(1). It is notified that the House

Business Committee at their last meeting approved the following tentative business to appear in the Order Paper for Tuesday, March 22nd to Thursday, March 31st, 2016.

**Tuesday March 22, 2016,
Afternoon Sitting, there shall be a
Committee of the Whole House, 3rd
reading;**

- a) The Siaya County Ward Development Fund Bill (the Chairperson, Committee on Delegated Legislation Justice and Legal Affairs).
- b) The Siaya County Public Participation Bill (the Chairperson, Committee on Delegated Legislation Justice and Legal Affairs)
- c) The Siaya County Assembly Service Bill.

**Wednesday, March 23rd, 2016 (Morning
Sitting) 2nd Reading**

- d) Report on Siaya County Carriage of Food Bill, 2015 (the Chairperson, Committee on Health.
- e) Report on the Siaya County Public Nuisance Bill, 2012 (the Chairperson, Committee on Health)
- f) The Siaya County Disaster Management Bill, 2015 (the Chairperson, Public Administration and Governance)

**Wednesday, March 23rd, 2016
(Afternoon Sitting) Second Reading**

- g) The Siaya County Public Works Bill, 2015 (the Chairperson, Committee on Public Works Roads Transport and Communication)
- h) Motion by Hon. Kadera on the appointment of the two

nominees (CECM Health and the County Secretary)

Thursday, March 24th, 2016.

- i) Report for the Committee on Public Administration and Governance on Vetting exercise of the policing oversight authority nominees.

Tuesday, March 29th, 2016.

Committee of the Whole House, 3rd
Reading.

- j) Report on Siaya County Carriage of Food Bill, 2015 (the Chairperson, Committee on Health)
- k) Report on the Siaya County Public Nuisance Bill, 2015 (the Chairperson, Committee on Health)
- l) The Siaya County Disaster Management Bill, 2015 (the Chairperson, Committee on Public Administration and Governance)

**Wednesday, March 30th, 2016 (Morning
Sitting) Second Reading**

- m) The Siaya County Alcoholic Drink Control Bill, 2015.

**Wednesday, March 30th, 2016
(Afternoon Sitting)**

- n) Report for the Committee on Selection on the names of the Members of the Privileges Committee.

**Thursday, March 31st, 2016 (Afternoon
Sitting)**

- o) Report for the Committee on water, environment and natural resources on incomplete work by China Jianxi international Kenya Ltd and Jiangxi Water and Hydropower Construction Kenya Ltd working on Siaya Bondo Water Supply and

Sanitation Project. (Committee on Water, environment and Natural Resources)

- p) Report for the Committee on Water, Environment and Natural Resources on questionable charcoal levies at Akala market by Kenya Forest Service officers. (Committee on Water, Environment and Natural Resources)

Mr. Speaker, thereafter, according to the Calendar of the House, we should be having an adjournment for the short recess. Thank you, Mr. Speaker.

Hon. Speaker: Next order!

BILL

(Committee of the Whole House)
(Hon. Deputy Speaker, Chairperson)

Hon. Chairperson: Hon. Members, we are now in the Committee of the Whole House to consider the Siaya County Ward Development Fund Bill, 2014.

Hon. Madialo: Thank you, Mr. Chairman. Chair, guide us on whether we are going Clause by Clause.

Hon. Chairperson: We can combine some Clauses especially the ones without issues while the ones with amendments can be dealt with separately.

Hon. Madialo: Hon. Chair, I stand to propose that Clause 2 that this Committee of the Whole House does delete the definition 'means residents of a particular area or region as a Ward, location or Sub Location and having common interest' and replace with the words 'means residents of Siaya County'. Clause 2, paragraph 6, delete the words 'Officer Adminstrating the Fund' and

replace with the word 'Fund Administrator'.

(Interruption)

Hon. Chair: I am meant to understand that this is a Bill that we had dealt with before and that the issues which are being raised by the Chair are the ones that the Committee ---and therefore Hon. Members we will proceed. All of you have copies of the Bill, they had been issued to you much earlier. Every Member has got this Bill; this is not the first time we are dealing with it. Hon. Madialo, proceed!

Hon. Madialo: Thank you, Mr. Chairman.

Hon. Chair: Hon. Andiego!

Hon. Andiego: Thank you, Chair. As you have just mentioned, we were given it long time ago and there are changes which are being read and we would have wished that we have the report with us so that we see changes compared to what we have in the Bill. I propose 15 minutes

Hon. Chair: They are already running the copies and they will be here in a short while. In the meantime we can proceed.

Hon. Madialo: Thank you, Hon. Chair. I propose that Clause 2, paragraph 7, delete the words 'Officer of the Fund' and replace with 'Fund Administrator'. Clause 4, Sub Clause 5, insert the word 'reasonable' before the word 'expense'. 7(h), delete the entire sub section and replace with the words 'continuously review and oversee the implementation of policies and the legislative process in relation to the Fund'. 7(i), delete the entire sub section and replace with the words 'do

such other thing necessary for the discharge of its functions under the Act or as may be provided for by any other written law'. Sec 12(2), delete the words 'with concurrence of' and replace with the words 'in consultation with'.

Hon. Chair: Before you go beyond Clause 12, we can propose a question. Hon. Members, I now propose the question that Clause 2, 4, 7 and 12 be amended as proposed by the Chair. I now put the question that Clause 2, 4, 7 and 12 be amended as proposed by the Chair.

(Question put and agreed to)

Hon. Madialo: Hon. Chair, I stand to propose that Clause 15(1), we delete the word 'of' and replace with the word 'for'. Clause 15(2), delete the word 'account of the Fund' and replace with the words 'Fund account'. Clause 20(1), delete the word 'of' and replace with the words 'budget' and 'a' be replaced with the word 'for'. 28(7), delete the number '11' and replace with the number '13'. 31(2), delete the word 'finds which is between the words 'total' and 'allocated' and replace with the words 'funds'. 34(2), delete the word 'ward' between the words 'the' and 'of' and replace with the word 'County'. 36(6), delete the word 'appraise' and replace with the word 'update'.

Hon. Chair: I now propose the question that Clauses 15(1), 15(2), 20(1), 28(7), 36, be amended as proposed by the Chair. I put the question that the above said Clauses be amended as proposed by the Chair.

(Question put and agreed to)

Hon. Chair: And I now propose that the same Clauses be part of the Bill as amended.

(Question put and agreed to)

Hon. Madialo: Hon. Chair, permit me to move to the Schedule of the Bill.

Hon. Chair: Yes, you are permitted.

Hon. Madialo: Clause 1 of the Schedule, delete the entire Clause and replace with the words 'The Chairperson and Members of the County Management Committee other than ex-officio members shall, subject to the provisions of this Act, hold office for a period of 3 years and shall be eligible for reappointment for a further term of 3 years'. Clause 2(1)(b) of the first Schedule, add Sub Clause 2(1)(b)(v) with the words 'is adjudged bankrupt by a competent judicial body'. 2(b)(ii), delete the words 'amounts to a felony under the Laws of Kenya'. Clause 5(6), delete the entire Clause and replace with the words 'any matter deliberated by the County Management Committee shall be decided through a majority vote of members present'.

Hon. Chair: I now propose the question that there be amendments under Schedule as proposed by the Chair. I now put the question that there be amendments under Schedule as proposed by the Chair.

(Question put and agreed to)

Hon. Chair: I now propose the question that the Schedule be part of the Bill. I now put the question that the Schedule be part of the Bill.

(Question put and agreed to)

Hon. Chair: Hon. Members, we know this is the most boring part of the Bill making and I want you to participate with the Chair rather than the Chair participating alone. There may be questions that may appear repetitive but that is the procedure, we cannot avoid it. Chair, proceed!

Hon. Madialo: Hon. Chair, permit me to thank the Members who have agreed with the amendments that we proposed. May I move---

Hon. Chair: Hon. Chair, you have not dealt with Clause 1 and 2 and even the Title.

Clause 1

Hon. Chair: I propose the question that Clause 1 be part of the Bill. Hon. Oriaro!

Hon. Oriaro: Thank you, Hon. Chair. Our colleagues thought that we are quite. Going by our usual number as at now, you know memorandum by the Governor can only be projected by 2/3rds and we fail the threshold. So generally all that is contained in the memorandum by the Governor, to me it's already losing the light of the day, so we can even surpass other processes, we go and adopt it straight away.

Hon. Chair: I now put the question that Clause 1 be part of the Bill.

(Question put and agreed to)

Title

Hon. Chair: I propose that the Title be part of the Bill.

Hon. Oriaro: Hon. Chair, on a mechanical ground it is in order going by the fact that we can't reject this by 2/3rds.

Hon. Chair: Thank you. I now put the question that the Title be part of the Bill.

(Question put and agreed to)

Hon. Chair: The mover!

Hon. Madialo: Hon. Chair, I now stand to move that this Committee do report to the House its consideration of the Siaya County Ward Development Fund Bill, 2014 and its approval thereof with amendments.

Hon. Chair: I will put the question which is that the Committee do report to the House its consideration of the Siaya County Ward Development Fund Bill, 2014 and its approval thereof with amendments. I now put the question which is that the Committee do report to the House its consideration of the Siaya County Ward Development Fund Bill, 2014 and its approval thereof with amendments.

(Question put and agreed to)

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT

THE SIAYA COUNTY WARD DEVELOPMENT FUND BILL, 2014

Hon. Adera: Hon. Speaker, Sir, we have are from the Committee of the whole House where we were dealing with the Siaya County Ward Development Fund Bill, 2014. Mr. Speaker, Sir, in view of the

fact that we have two more Bills to consider, I wish to seek the leave of the House that we proceed on with the Committee of the whole House and deal with the two Bills then later on report on the three.

Hon. Speaker: I have no objection, unless there is somebody who has. If there is none, allow me to make a quick Communication then we go back to the Committee of the whole House.

COMMUNICATION FROM THE CHAIR

Hon. Members, I have shared this with the Chair of the Committee of the whole House and we have noticed that Members are responding as though all this is new to them and they are conceding to a death penalty.

(Laughter)

Your concerns are genuine, but let us read from the same script. I want to share with you that these Bills, as had been mentioned to you by the Mover and also the Chair of the Committee of the whole House. They are Bills which we had considered before and they came back with Memoranda from the Governor which came late and therefore we made a pronouncement in the Office of the Speaker that the law stipulates that when you bring them after the stipulated time then they are considered to be laws and not Bills anymore. When we took them to the Government Printers for printing they were hesitant so we decided to bring them through this process.

Let me take you through what I heard Hon. Oriaro also share with you. When you look at Section 24(3) of the County Governments Act, 2012 it says; If the Governor refers a Bill back to the County Assembly, the County Assembly may, following the

appropriate procedures under this section—

- (a) amend the Bill taking into account the issues raised by the Governor; or
- (b) pass the Bill without amendment.

(4) If a County Assembly amends the Bill taking into consideration the issues raised by the Governor, the Speaker shall within fourteen days submit the Bill to the Governor for assent.

(5) If a County Assembly passes the Bill a second time, without amendment, or with amendments which do not accommodate the Governor's concerns by a vote supported by two-thirds of Members of the County Assembly, the Speaker shall within seven days re-submit the Bill to the Governor and the Governor shall within seven days assent to the Bill.

That is why Hon. Oriaro was saying that technically if we do not have two-thirds, then automatically we are going by the Governor's recommendations. Allow me to share with you some of these recommendations so that you do not suspect the Mover to be moving things that are not addressing the concerns of the Governor.

In the County Assembly Service Bill, 2014 the concern of the Governor was; allow me to read it to you: That further, Section 116 of the Public Finance Management Act, 2012 makes provisions for the establishment of the County funds other than the County Revenue Fund established under Article 207. Therefore—Allow me to usher in some Members. Come in.

(Several Hon. Members walked into the House)

The concern of the Executive in that Bill was that we establish our own fund in managing our loans and mortgage scheme. So, the Committee looked at that

provision and amended accordingly without giving away our ability to manage our own funds.

The other concern was on the Siaya County Public Participation and Petition Bill, 2014. In the Governor's communication to us, he had looked at the establishment of a directorate of public participation and petitions and in that regard he had noted that there is already a growing wage bill and therefore he wanted the Assembly to consider having a directorate that are paid allowances pursuant to the number of meetings they attend. Those ones and maybe grammatical issues are really the concerns that the Committee on Justice and Legal Affairs addressed. Thank you.

COMMITTEE OF THE WHOLE HOUSE

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

IN THE COMMITTEE

*[The Chairman (Hon. Adera) took
the Chair]*

*Siaya County Public Participation
and Petitions Bill, 2014*

(Loud consultations)

Hon. Chairman: Hon. Members, we are back in the Committee of the Whole House to consider the Siaya County Public Participation and Petition Bill, 2014. Let's proceed.

Hon. Madialo: Mr. Chairman, I stand to propose the following amendments:

Clause 2 – definition of the word 'public', paragraph (d), delete the letter 'a' between the words 'in' and 'the'.

Clause 5 – be split into two;

- There is established an office to be known as the Office of the

Public Participation which shall be a public office of the County Government.

- The remuneration of the office bearers, administration costs and their expenses shall be provided by the County Assembly and payable from the County Revenue Fund.

Clause 8(2) - Delete the words 'the operations of the office' and in its place insert the words 'public participatory initiatives'

Clause 8(4) – Delete the words 'to show' and replace with the words 'shall demonstrate'

Clause 8(5) – Insert the words 'mobilize the' between the words 'to' and 'relevant'

Clause 8(6) – Delete the word 'must' and replace with the word 'shall'

*(Question, that Clauses 2, 5, 8(2),
8(4), 8(5) and 8(6) be amended, proposed)*

*(Question, that Clauses 2, 5, 8(2),
8(4), 8(5) and 8(6) be amended, put and
agreed to)*

Hon. Chairman: Hon. Members, you realize that most of these amendments are grammatical. They should not worry you, but this is the place where we can make such amendments. This is where we ratify the proposed amendments made by Committees. Chair, proceed.

Hon. Madialo: Thank you, Mr. Chairman.

Clause 10(2) – Delete the phrase 'as the office may determine'

Clause 11(1) – Delete the word 'exemplary' and replace with the word 'satisfactory'

Clause 13(2)(b) – Insert the word 'the' between the words 'of' and 'office'

Clause 13(2)(c) – Delete the letter 'a' and replace with the word 'the'

Clause 14(e) – Insert the word ‘relevant’ between the words ‘the’ and ‘nominating’

Clause 14(e) – Insert the word ‘under’ between the words ‘body’ and ‘section’

Clause 17(1)(e) – Delete the word ‘board’ and replace with the word ‘office’

Clause 21(1) – Delete the letter ‘A’ at the beginning of the section and replace with the word ‘The’

Clause 21(1)(a)(i) – Delete the word ‘must’ and replace with the word ‘shall’

Clause 21(1)(a)(ii) – Delete the words ‘in the County’

Clause 21(2) – Delete the word ‘Despite’

Clause 21(2)(b) – Delete the letter ‘a’ and replace with the word ‘the’

Clause 22(2)(c) – The word office is misspelt

(Question, that Clauses 10(2);

11(1); 13(2)(b); 13(2)(c); 14(e); 17(1)(e);

21(1); 21(1)(a)(i); 21(1)(a)(ii); 21(2);

21(2)(b); 22(2)(c) be amended, proposed)

(Question, that Clauses 10(2);

11(1); 13(2)(b); 13(2)(c); 14(e); 17(1)(e);

21(1); 21(1)(a)(i); 21(1)(a)(ii); 21(2);

21(2)(b); 22(2)(c) be amended,, put and

agreed to)

Hon. Madialo: Thank you, Mr. Chairman. Allow me to continue.

Clause 23(2) – Delete the letter ‘a’ and replace with the word ‘the’

Clause 24(1) – Delete the word ‘must and replace with the words ‘it’ and ‘be’ and replace with the word ‘shall’

Clause 24(2) and (3) – Delete the word ‘must and replace with the word ‘shall’

Clause 24(3), (4), (5) and (6) – Delete the word ‘terns’ and replace with the word ‘terms’

Clause 25 (1) – Insert the word ‘for’ between the words ‘resource’ and ‘the’

Clause 27(4) – Delete the word ‘must’ and replace with the word ‘shall’

Clause 28 (1) – Delete the word ‘this’ and replace with the word ‘the’

Clause 30(1) (3) and 31(1) – Insert the word ‘County’ between the words ‘the and ‘Secretary’

Clause 32(1)(b) – Insert the word ‘to’ between the words ‘relating’ and the letter ‘a’

Clause 32(1)(c) - Delete the word ‘theirs’ and replace with the word ‘its’

Clause 32(9) – Delete the numerical 28 and replace with the 31(2)

Clause 34(1) – Insert the word ‘it’ between the words ‘which’ and ‘shall’

Clause 35- Insert the word ‘Justice’ between the words ‘Administrative’ and ‘Act’

Clause 39(3) – insert the word ‘the’ between the words ‘in; and ‘County’

(Question, that Clauses 23(2);

24(1); 24(2) and (3); 24(3), (4), (5) and

(6); 25 (1); 27(4); 28 (1); 30(1) (3) and

31(1); 32(1)(b); 32(1)(c); 32(9); 34(1);

35; 39(3), be amended, proposed)

(Question, that Clauses 23(2);

24(1); 24(2) and (3); 24(3), (4), (5) and

(6); 25 (1); 27(4); 28 (1); 30(1) (3) and

31(1); 32(1)(b); 32(1)(c); 32(9); 34(1);

35; 39(3), be amended,, put and agreed to)

Clauses 40-55

Question, that Clauses 40-55 be part of the Bill, proposed)

(Question, that Clauses 40-55 of the Bill, put and agreed to)

Schedules

(Question, that Schedules be part of the Bill, proposed)

(Question, that Schedules be part of the Bill, put and agreed to)

Title

(Question, that the Title be part of the Bill, proposed)

(Question, that the Title be part of the Bill, put and agreed to)

Clause 1

(Question, that Clause 1 be part of the Bill, proposed)

(Question, that Clause 1 be part of the Bill, put and agreed to)

SIAYA COUNTY ASSEMBLY SERVICE BILL, 2014

(Loud consultations)

Hon. Chairman: Hon. Members, we are now handling the Siaya County Assembly Service Bill, 2014.

Clause 2-27

(Question, that Clauses 2-27 be part of the Bill, proposed)

(Question, that Clauses 2-27 be part of the Bill, put and agreed to)

Clause 28

Hon. Madialo: Thank you, Mr. Chair. The Hon. Oriaro is laughing at me

and it is because he doesn't know what we are talking about. We are dealing with the Siaya County---

Hon. Oriaro: Mr. Chair, I do object. This is just a routine exercise and we have even gone to the extent of lumping up all the Bills at ago. So, we just better agree that we don't meet the threshold of rejecting them and just adopt them.

Hon. Ngure: Mr. Chairman, I have a concern. We are really struggling with saying 'Nay', 'Aye' or keeping quiet. What are we dealing with? I don't see any paper--

Hon. Chairman: I thought the document had been supplied to you, Hon. Members.

Hon. Members: No! No!

Hon. Ngure: I don't have anything!

Hon. Chairman: Can you ensure Hon. Ngure has a copy of the Bill we are dealing with.

Hon. Members: No! All of us!

Hon. Oriaro: You see! My concern would have helped---

Hon. Chairman: Hon. Oriaro, you are out of order!

(Loud consultations)

While on the Chair, the Hon. Speaker did make a Communication on the same. Hon. Members, I don't know why you are raising it at this time, unless you feel that the Committee of the whole House is becoming more boring. If it is boring, then it would be more boring for me who is seated here because repeating the questions is quite boring than any other thing. Actually, we are almost done. Let us finish up on it.

Hon. Aneme: Chair, because the two of you have run through it together and you have said we are almost done, so let us just complete it. Both of you have been talking and the rest of us remained quiet. The others are saying ‘Aye’ and they don’t know what they are saying ‘Aye’ to. Others like me have kept quiet because we don’t know what is going on. We were ambushed!

Hon. Owii: Mr. Chairman, I hope it is in order for us to respect the Standing Orders of this House. Anytime one speaks, he/she has to honor the Chair by standing up. Secondly, Mr. Chairman. I wonder what has happened to your eyes today. Some of us have decided that we don’t go with the Standing Orders of this House and can put on in any way we chose. I don’t know what we should do about this new arrangement.

(Loud consultations)

There is a stranger in the House, which is what I mean.

Hon. Chairman: Who is the stranger in the House?

(Loud consultations)

I am trying to look around. Hon. K’owii, the Deputy Majority Leader, can you assist the Chair to see the stranger.

Hon. Owii: Mr. Chairman, it appears that it is deliberate that we all close our eyes. I also want to close my eyes because the stranger is sitting not very far away from you.

(Laughter)

Hon. Chairman: Hon. Members, Thursday, last week, a Notice Paper was issued and it indicated the businesses that we were to discuss today. You cannot tell

me at this particular minute that you have been ambushed by the debate.

(Applause)

Unless you carried your Notice Papers with you and used them to light *jikos*.

(Loud consultations)

Hon. Andiego: Chairman, some of us were away. We did not appear in this Assembly.

Hon. Chairman: It is your business as a Member of this House to find out what transpired in your absence. We are now telling you that while you were away, we issued a Notice Paper that we will be dealing with these Bills. Hon. Members, let us proceed.

Hon. Madialo: Thank you, Mr. Chair, for protecting me. Chair, besides that, all Hon. Members have mortgages, they no longer use *jikos*, they use gas.

(Laughter)

Chair, permit me to move that the Committee of the whole House amends Clause 28 of this Bill to read; ‘Siaya County Assembly Loans and Mortgage Scheme’. Remove the word ‘fund’.

Hon. Chairman: I believe this is the only amendment you are proposing in the Bill.

Hon. Madialo: Exactly! For clarification purposes and I think the Speaker was clear on it, the bone of contention between us and the Executive was because the word ‘fund’ was mentioned. What this Bill intends to manage is the loans and mortgages that is given to us not by the County Fund but in our capacity as MCAs because it is one of the benefits recommended by SRC. So, we

elected to dispense off with the word 'Fund' and replace it with the word 'Scheme' so that it reads, 'The Siaya County Assembly Loans and Mortgage Scheme'.

*(Question, that Clause 28
as amended be part of the Bill,
proposed)*

Hon. Ngure: Mr. Chairman, I just wanted to get it clear. What is the difference between the word 'Fund' and 'Scheme'? When we change the name from 'Fund' to 'Scheme', what does somebody get?

Hon. Chairman: Before Hon. Madialo responds, is there any other Member with an issue on the same? Seemingly, there is none. Hon. Madialo, you can reply.

Hon. Madialo: Mr. Chair, it can as well be a fund, but as our Speaker had alluded, the reason why it is coming back is because somebody sees the word 'Fund'. We all know that this is money given to us by SRC but we return it so that it revolves and will be given to the next person who will join the Assembly. It becomes a scheme. You take it and buy a car and somebody else will also take it and buy a car. There is nothing you lose by removing the word 'Fund' and there is nothing you gain by replacing it with the word 'Scheme'. This is money that is entrusted in the hands of our Assembly Service Board for purposes of providing mortgage and car loans to the membership of the Assembly.

The memorandum from the Executive was that because it is called a 'Fund' then the CEC should be consulted. You and I know that consultation is unnecessary because this is a benefit that has already been given by SRC. The CEC

Finance has not much to do with it because whether he says there is money or not, the benefit has already been given by SRC; and to crown it, we are repaying the money.

Chair, I don't know whether I was explaining or whether I was debating to support my Motion that this be amended, but I urge Members to support the amendment because the scheme is already ongoing. All we need is to give teeth to the Board by an Act of this County Assembly by establishing structures for the management of that scheme. So, I urge you to support.

Hon. Oriaro: Chair, I want to support that one based on the provisions in law. Both you and Madialo being lawyers, what you ought to tell us is that in the PFM Act and the regulations thereof—Section 116 right from paragraph one until the end, the formation of a fund is a Motion from the CEC Finance and it has to be adopted at the Executive. The administrator who administers the fund is also appointed by the CECM. So, the Governor, in his own wisdom could not allow us to use the word fund because it would have been more misleading. I support.

Hon. Chairman: Thank you. In a nutshell, what Hon. Madialo said is that if we use the word 'Fund' the Executive feels that they should manage it themselves. Therefore, for us to avoid push and pull with the Executive, then we better do away with the word 'Fund'.

Hon. Oriaro: But, Mr. Chair, if I would have been declared a stranger in the House because I didn't have a neck tie, I wouldn't have introduced all those words of wisdom.

(Laughter)

Hon. Chairman: Hon. Oriaro, are you informing the Chair that you are the stranger in the House?

(Laughter)

Hon. Oriaro, now the Chair can see you very well.

(Laughter)

And the Chair now orders that you go dress well.

(Laughter)

(Hon. Oriaro walked out of the Chambers)

(Laughter)

(Question, that Clause 28 as amended be part of the Bill, put and agreed to)

C

ause
29-
43

(Question, that Clauses 29-43 be part of the Bill, proposed)

(Question, that Clauses 29-43 be part of the Bill, put and agreed to)

Schedules

(Question, that Schedules be part of the Bill, proposed)

(Question, that Schedules be part of the Bill, put and agreed to)

Title

(Question, that the Title be part of the Bill, proposed)

(Question, that the Title be part of the Bill, put and agreed to)

Clause 1

(Question, that Clause 1 be part of the Bill, proposed)

(Question, that Clause 1 be part of the Bill, put and agreed to)

Hon. Madialo: Thank you. Mr. Chairman, I now beg to move that the Committee do report to the House its consideration of The Siaya County Wards Development Fund Bill, 2014; The Siaya County Public Participation and Petitions Bill, 2014 and The Siaya County Assembly Service Bill, 2014 and their approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS

THE SIAYA COUNTY WARDS DEVELOPMENT FUND BILL, 2014

Hon. Adera: Hon. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Siaya County Wards Development Fund Bill, 2014 and approved the same with amendments.

Hon. Madialo: Mr. Speaker, Sir, I beg to move that the House do agree with the Committee in the said report.

(Question that the House do agree with the Committee of the whole House in the said report, proposed)

(Question that the House do agree with the Committee of the whole House in the said report, put and agreed to)

(Applause)

Hon. Madialo: Mr. Speaker, Sir, I beg to move that The Siaya County Wards Development Fund Bill, 2014 be now read a third time.

(Question proposed)

(Question put and agreed to)

(Bill read a third time)

THE SIAYA COUNTY PUBLIC PARTICIPATION AND PETITIONS BILL, 2014

Hon. Adera: Hon. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Siaya County Public Participation and Petitions Bill, 2014 and approved the same with amendments.

Hon. Madialo: Mr. Speaker, Sir, I beg to move that the House do agree with the Committee in the said report.

(Question, that the House do agree with the Committee of the whole House in the said report, proposed)

(Question, that the House do agree with the Committee of the whole House in the said report, put and agreed to)

Hon. Madialo: Mr. Speaker, Sir, I beg to move that The Siaya County Public Participation and Petitions Bill, 2014 be now read a third time.

(Question proposed)

(Question put and agreed to)

(Bill read a third time)

THE SIAYA COUNTY ASSEMBLY SERVICE BILL, 2014

Hon. Adera: Hon. Speaker, Sir, I now beg to report that the Committee of the whole House has considered The Siaya County Assembly Service Bill, 2014 and approved the same with amendments.

Hon. Madialo: Mr. Speaker, Sir, I beg to move that the House do agree with the Committee in the said report.

(Question, that the House do agree with the Committee of the whole House in the said report, proposed)

(Question,, that the House do agree with the Committee of the whole House in the said report, put and agreed to)

Hon. Madialo: Mr. Speaker, Sir, I beg to move that The Siaya County Assembly Service Bill, 2014 be now read a third time.

(Question proposed)

(Question put and agreed to)

(Bill read a third time)

ADJOURNMENT

Hon. Speaker: Hon. Members, can we be upstanding for adjournment.

(All Hon. Members stood up in their places)

Hon. Members, there being no other business, this House adjourns until tomorrow, Wednesday, 23rd March, 2016 at 9.00 a.m. in the Chambers.

Hon. Members, remember that there is a critical informal meeting after

this to discuss the amendments in the
Fiscal Strategy Paper.

The House rose at 3.46 p.m.

WEDNESDAY, 23RD MARCH, 2016

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

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

PRAYER**BILL**

**SIAYA COUNTY CARRIAGE OF FOOD
BILL 2015**

(Second reading)

Hon. Speaker: Hon. Were!

Hon. Were: Mr. Speaker, Sir, on 28th October, 2015, The Siaya County Carriage of Food Bill, 2015 and The Siaya County Public Nuisance Bill, 2015 were read for the first time on the floor of the House and subsequently committed to the Committee on Health Services. We have met several stakeholders to fine tune the Bills and we are proposing several amendments in order to bring out the best document which will stand the test of time and it's my request that our Committee should be allowed to engage more stakeholders to refine the document, thank you.

Hon. Speaker: Mr. Chairman, are we therefore saying that we do not use second reading for this?

Hon. Were: I would seek your guidance because we are still re-engaging and engaging.

Hon. Speaker: Hon. Muhula!

Hon. Muhula: Thank you, Mr.

Speaker, Sir, I think I would want to support what the chair for Health Committee has said because in order to save the Bill from the deathbed, we would rather not take it to the second reading at this moment because if it fails! That mostly would bring ban in the House. So I think at least we go with the request of the Chair and I would also require your indulgence, Mr. Speaker, Sir, that we withdraw it at this moment.

Hon. Speaker: Is there a second opinion?

Chairman when you say that you want to consult, are you also aware that we slotted this Bill for Committee of the Whole House on next Tuesday? Do you think that still withstand, so that you have between now and next week Tuesday?

Hon. Were: Yeah, that will be fine.

Hon. Speaker: So that means you will seek the Mover of the Motion so that we can have the 2 stages go together. The second reading only goes to give us the Report then we take to the Committee of the Whole House. If that is for the 2 Bills,

then I advise that you make sure you consult the key stakeholders as the persons in charge at the docket of health extensively.

Yes, Hon. Booker.

Hon. Minami: Mr. Speaker, Sir, I think the chair is being dishonest. We only have tomorrow as official working days, Friday this week and Monday next week will be Holidays. So he needs to give us a timetable of the officials that he is going to meet and when, so that a House we are sure that by Tuesday afternoon we are going to move ahead on those 2 Bills but as we stand now without clear guidelines then we might be deceiving ourselves in doing this, thank you.

Hon. Speaker: Chair, is Hon. Booker a Member of your Committee?

Hon. Were: No.

Hon. Speaker: Have you shared this with the Members of the Committee that you are sure that by Tuesday next week you will have the Report?

Hon. Were: Yes.

Hon. Speaker: Hon. Booker it's a genuine concern you have but now that they are the authors of the Bill of the day and the sponsors and they are confirming that they are capable, let's give them the benefit of doubt. So that takes care of number 8 and 9. Next Order!

BILL

SIAYA COUNTY DISESTER MANAGEMENT BILL 2015

(Second reading)

Hon. Speaker: Yes, Chair.

Hon. Awuor: Thank you, Mr. Speaker, Sir, my copy is not in order and I am trying to arrange it. On behalf of the Committee on Governance and Administration have the honour and privilege to present the Report on Public Participation and input on the Siaya County Disaster Management Bill, 2015 pursuant to Standing Order 192 (5) (e) and (g) with specific reference to Standing Orders 47 (4), 37 (7), 120 and 121 of the County Assembly of Siaya.

The Siaya County Disaster Management Bill, 2015, having been read for the first time in accordance with the provisions of Standing Order 120 on Thursday November 5, 2015, in this Assembly, stood Committed to the Committee on Governance and Administration. The Committee, under the directive of the Speaker and resolution of the Liaison Committee in tandem with Standing Order 193, and Assembly Clerk having publicized the dates for public participation on the Bill, presented to various forums in the six sub-Counties:

The Siaya County Disaster Management Bill, 2015, having been read for the first time in accordance with the

provisions of Standing Order 120 on Thursday November 5, 2015, in this Assembly, stood committed to the Committee on Governance and Administration. The Committee, under the directive of the Speaker and resolution of the Liaison Committee in tandem with Standing Order 193, and the Assembly Clerk having publicized the dates for public participation on the Bill, presented to various forums in the 6 Sub- Counties: Rarieda, Bondo, Alego Usonga, Ugenya, Ugunja and Gem for the participation and critical input by the publics of Siaya County. This was done on Friday, November 6th, 2015 and Monday November 9th, 2015.

Mr. Speaker, Sir, taking into cognizance views from the public; the Committee undertook a Report writing exercise on the Bill with the view to examine the proposals from the members of the public. The Committee observed the various provisions of the Standing Orders of this House; the Constitution of Kenya, the County Government Act 2012.

The Committee is grateful to the Office of the Speaker, the Office of the Clerk and the members of the public who actively participated during the presentation of the Bill to the public.

On introduction the Committee of Governance and Administration, in execution of its mandate which grants its authority to oversight the Executive as provided for in Standing Order 192 (5) (a) (d) (g) and (e) read and subjected The Siaya County Disaster Management Bill 2015 to public participation and reported as in this Report.

The mandate of the Committee is outlined I don't need to go through it and the membership is 11.

The committee was to present the Siaya County Disaster Management Bill 2015 to members of the public for public participation through public participation fora in Bondo, Gem, Ugenya, Rarieda, Alego Usonga and Ugunja, collect the views of the public on the Bill in part or in entirety review the Bill taking into consideration the views of the public, compile, validate and approve the Report on public participation the Siaya County Disaster Management Bill, 2015 and Report to the Committee of the Whole House to guide the deliberations by the House and its decision on the Bill.

Our proceedings, there were 10 meetings on this matter. Two meetings were conducted in the County Assembly Boardroom out of which a public participation methodology and schedule were drawn, six meetings were public participation in the six Sub- Counties while the last two were held in Kisumu during which the Report was compiled.

Procedure adopted for evidence gathering: through the Public Relations Office and the ICT Section, the electronic impression of the Bill was uploaded on the County Assembly of Siaya website: www.siayaassembly.or.ke for ease of access far and wide; 3 radio announcements were done from 9 days to the dates of public participation; local *barazas* and printed notices posted at various public walls, noticeboards were also used. All these informed the public of the County Assembly's intention to present the Bill for public participation citing dates, venues and time for public participation and invited the public individually or collectively to present their views or interests to the Office of the Assembly Clerk for consideration. During the pre-public participation boardroom

meetings, did a technical analysis of the Bill with a view to examining its applicability and ability to respond to the set of issues back grounding its drafting.

During public participation meetings, the Committee read out the Bill which was also projected on walls to the public; gave the members of the public being men and women, youth and elderly persons and persons with disability ample time to react and/or present their views, invited both the Committee members and members of the public to attempt responses to issues arising; and consolidated, probed issues and documented outcomes for purposes of records and reporting.

Relevant sections of the law: the Constitution, the County governments Act No. 17 of 2012, and the Standing Orders were referred to. The Committee Clerk usually recorded the proceedings of the Sittings and prepared minutes highlighting key proposals for amendment on the Bill.

Allow me to read the proposed amendments on the Bill.

Hon. Speaker: You will just mention the rest will be done in the Committee of the Whole House.

Hon. Awuor: Thank you, Mr. Speaker, Sir.

Amendment 1

PART I –PRELIMINARY

Section 3(b) – Insert a comma between ‘property’ and ‘health’

Amendment 2

Section 4: The Committee should include critical stakeholders in disaster events like;

- Official form public works (head) because of possibility of need for physical reconstruction of roads,

buildings etc., after certain types of disasters.

- Head of medical services in the County – most disaster events’ interventions require involvement of medical personnel and medical supplies, so a practitioner is crucial in the Committee.

Amendment 3

ADD a section in the Bill dealing with requirement of the Committee giving annual report to the Assembly.

- There has been a lot of statements by members of the Assembly on use of funds meant for El-Nino related activities with inadequate response from the implementers. To avoid such intermittent queries, there should a legislation that compels the implementers to furnish the House with such Reports.
- The structuring of this suggested inclusion should follow as such; *the Committee shall within three months after the end of each year, prepare a report on the activities of the Committee for the preceding year and transmit such report to the County Assembly.*

PART II – ESTABLISHMENT AND ADMINISTRATION OF THE DISASTER MANAGEMENT COMMITTEE

Amendment 4

PART II (SECTION5) – Functions of the Committee,
Include – “Develop and maintain a directory of agencies, departments, private

sector entities, non-governmental and faith based organizations that are involved in disaster management in Kenya and establish effective communication links with the identified entities”

Amendment 5

PART II (SECTION 7) – County Disaster Management Plan

The following information should be added as content of disaster management plan.

- Procedures for informing the public, County Government Departments, and other stakeholders, of hazard alert, declaration of disaster situation, or existence of a disaster.
- Procedures for accepting and facilitating volunteer’s services and relief supplies during and after the state of disaster situation.

PART III – MEASURES BY THE COUNTY GOVERNMENT FOR DISASTER MANAGEMENT

Amendment 6

Clause 10 (1) (a)

- a.) a disaster exists then the Governor declares, by notice in the County Gazette that a disaster has occurred;

Be replaced by:

- b.) a disaster exists then the Governor declares, by notice in the County Gazette or in the Kenya Gazette, that disaster exists after receiving advice from the Committee that a disaster has occurred;

Amendment 7

Clause 10 (1) (b) (i)

- (i) the Governor declares by notice in the County Gazette, after receiving advice from the Committee under subsection

(2) that there is a substantial prospect that a disaster shall occur; or

Clause 10 (1) (b) (i) be replaced by:

(j) the Governor declares by notice in the County Gazette or in the Kenya Gazette, after receiving advice from the Committee under subsection (2) that there is a substantial prospect that a disaster shall occur; or

Amendment 8

Clause 10 (3)

(3) The Committee may certify an agency registered and operating within the county, which it considers to have a high level of technical expertise in the prediction or assessment of risk of any kind of disaster, as an accredited disaster notification service for the purposes of this Act.’

Clause 10 (3) be replaced by:

(3) The Commitment may certify an agency registered and operating within the county, and in case of none existence of such, an agency registered in the Republic of Kenya with assets in and operating within the County having been identified, which it considers to have a high level of technical expertise in the prediction or assessment of risk of any kind of disaster, as an accredited disaster notification service for the purposes of this Act.

PART IV – FINANCIAL PROVISIONS

Amendment 9

Clause 15(1)

15. (1) The Committee shall open a bank account which shall be administered on behalf of the Committee by the Secretary.
Clause 15(1) be replaced by:

15. (1) The Committee shall open a bank account which shall be administered on behalf of the Committee by the Secretary in accordance with the Public Finance Management Act, 2012.

Amendment 10

Section 16 – Insert the word ‘plan’ after the word ‘management’

Mr. Speaker, Sir, I rest my case. I want to call upon Hon. Osuri to second. Thank you.

Hon. Osuri: Thank you, Mr. Speaker, Sir; I am on my feet to second.

(Question that the proposed Siaya County Disaster Management Bill be read a second time proposed).

Hon. Speaker: I invite contributions. Yes, Hon. Member for Central Alego.

Hon. Oriaro: Thank you, Mr. Speaker, Sir; I have an issue with amendment 8. The seniority of agencies as proposed here for amendment is wanting because we will be having various agencies like Red Cross, Plan International and Care Kenya et al, so we talk of ‘the Committee may certify any agency’, that one leaves room for going for one which is readily available. If they are so many, then we incorporate them.

According to me it should read, ‘the Committee may certify that any agencies registered and operating within the County continuously’ but if you say the Committee may certify a registered agency it means we will be discouraging partners who are out to wilfully serve within the County.

Hon. Speaker: Those ones will be taken care of in the Committee of the Whole House.

(Question that the proposed Siaya County Disaster Management Bill be read a second time put and agreed to.)

BILL

SIAYA COUNTY DISASTER MANAGEMENT BILL 2015 (Second Reading)

an Act of the County of Siaya to provide for a more effective organization of disaster risk reduction and mitigation of, preparedness for, response to and recovery from emergencies and disasters in Siaya County; and for connected purposes.

Hon. Speaker: Just to remind us that on Wednesday next week according to the Notice Paper we are going to have the public come for the committee of the Whole House so by that time we will have refined those proposed amendments.

MOTION

Hon. Speaker: Just to remind you before we go to the motion of adjournment is that in the afternoon we will be having the Siaya County Public Works Bill going through the Second Reading the Committee will give us a Report I hope that has not changed.

We will also have a Motion by the Hon. Deputy Speaker on appointments.

ADJOURNMENT

This House is adjourned until today Wednesday, 23rd March, 2016 at 2.30 p.m. in the Chamber.

The House rose at 9.59 a.m.

WEDNESDAY, 23RD MARCH, 2016

The House met at the County Assembly Chambers, at 2.30 p.m.

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

PRAYER**PAPER****PUBLIC WORKS BILL, 2015 (COUNTY ASSEMBLY BILL NO. 7 OF 2015)**

Hon. Asewe: I would like to lay before this House the report of Committee on Public Works, Roads, Transport and Communications on the Siaya County Public Works Bill, 2015

(Report was laid on the Table of the House)

BILL**PUBLIC WORKS BILL, 2015 (COUNTY ASSEMBLY BILL NO. 7 OF 2015)**

Second Reading

NOTICE OF MOTION**PUBLIC WORKS BILL, 2015 (COUNTY ASSEMBLY BILL NO. 7 OF 2015)**

Hon. Asewe: Thank you, Mr. Speaker, Sir. I would like to give a Notice of Motion on the report of Public Works, Roads, Transport and Communication on the Siaya County Public Works Bill, 2015.

Hon. Speaker: Proceed!

Hon. Asewe: Mr. Speaker, on behalf of the Members of Committee on Public Works, Roads, Transport and Communication reviewing The Siaya County Public Works Bill, I am pleased to present this report to the House.

On Wednesday, 28th October, 2015, The Siaya County Public Works Bill was read for the first time on the Floor of the House and subsequently committed to the Committee on Public Works, Roads, Transport and Communication on the fact that Standing Order no. 192 (Second Schedule) of the Hon. House has domiciled all matters pertaining to Roads and Transport under the Committee on Public Works, Roads, Transport and Communication.

COMMITTEE MANDATE

The Committee on Roads, Public Works, Transport & Communication is established under The Standing Order No. 192 and is mandated to oversight on all matters related to;

- i. County transport, including County roads, street lighting, traffic and parking, public road transport and ferries and harbours, excluding the regulation of International and National shipping and matters related thereto;
- ii. County public works and services including storm water management systems in built up areas,
- iii. Fire fighting services and
- iv. Disaster management.

The Committee held meetings on 6th and 9th of November 2015, the Committee held 6 sittings with the public in all the Sub-Counties in the spirit of public participation and in accordance with Standing Order No. 121; to get the views of the people on the Bill. The Committee

held a two day retreat in Kisumu between the 18th and the 19th of November 2015 to critically analyze the Bill and incorporate the views that they had collected from the public.

PROCEDURE ADOPTED

The Committee subjected the Bill for public participation in all the six Sub-Counties in a bid to capture the views of the public. In addition, the Committee did a technical analysis of the Bill with a view to evaluating its ability to offer a set of solutions to the challenges within the public works.

I wish to record the Committee's gratitude to the House for having entrusted us with the execution of the important duty of contributing to the efforts of ensuring a legal framework is put in place to effectively deal with matters of Public Works within Siaya County. I also thank the Honorable Members of this Committee for their immeasurable effort and the secretariat that made this report a reality.

Finally, it's now my duty on behalf of the Committee on Public Works, Roads, Transport and Communication to present and commend this report for immediate consideration and adoption by the House. The Committee also requests the House to adopt the resolutions proposed in this report.

CONSIDERATION AND ADOPTION OF THE REPORT BY THE COMMITTEE

We, the undersigned Members of the Committee on Public Works, Roads, Transport and Communication having considered this report on Siaya County Public Works Bill, do hereby confirm our agreement with the content of the Report and request the Chairperson to present the

report to the House. The Membership of the Committee is listed below.

COMMITTEE

RECOMMENDATIONS

Amendment 1

Interpretation

Insert the meaning of storm water as stated below;

“Storm water” means water resulting from natural precipitation or accumulation and includes ground and spring water ordinarily conveyed by the storm water system, as well as sea water within estuaries, but excludes water in a drinking water or waste water reticulation system;

“storm water system” means both the constructed and natural facilities, including pipes, culverts, water courses and the associated flood plains whether under or over public or private property, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use and disposal of storm water.

Amendment 2

Part II clause 6 inserts the qualifications of the Director and Deputy Directors

Clause 6 be replaced by

The Directorate shall be headed by a director who must be an engineer in a relevant field and be registered by a professional body.

The Directors shall be deputized by Deputy Directors who must be engineers in relevant fields and be registered by a relevant professional body who will respectively be in charge of the Following sections:

- a. Architectural
- b. Quantities and Contracts
- c. Electrical and Mechanical
- d. Structural and Civil engineering

- e. Maintenance of buildings and other works

Amendment 3

In clause 8 under powers of the Directorate, insert;

- (f) The directorate shall have the power to form sub Committees to ease execution of operations and mandates within their powers.

Amendment 4

Part III clause 9

There shall be established a research center for the purposes of

Be replaced by

The directorate shall establish a research center for the purposes of

Amendment 5

Clause 11

Delete section 9 and replace by section 10

Amendment 6

Clause 12

Delete section 9 and replace by section 10

Amendment 7

Clause 13 (a)

- (a) The prescribed fee

Be replaced by

- (a) The prescribed fee as indicated in the Finance Act

Amendment 8

Clause 16 inserts “Public” between County and Works in the first line.

16. The Directorate of County Works shall keep and maintain a Register.....

Be replaced by

16. The Directorate of County Public Works shall keep and maintain a Register.....

Amendment 9

Clause 17

The Register of Buildings shall be a County document and any person may, upon payment of a fee to be prescribed by the directorate of Public Works, apply for

a certificate of search of any register building.

Be replaced by

The Register of Buildings shall be a County document and any person may, upon payment of a fee to be prescribed in the Finance Act, apply for a certificate of search of any register building.

Amendment 10

Clause 18 (j)

- (j) he area of the building in square meters

Be replaced by

- (j)The area of the building in square meters

Amendment 11

Clause 21

The word **food** as captured in the last line to *be replaced by* flood.

Amendment 12

Clause 22, (2)

- (2) Any study done under subsection will be at the expense of the application

Be replaced by

- (2) Any study done under this subsection will be at the expense of the application.

Amendment 13

Clause 23

- (1) Where there is a storm water pollution incident as contemplated in this Act, the owner of the property on which the incident took place or is still in the process of taking place or the person responsible for the incident shall immediately report the incident to the County
- (2) The County may in its opinion require that such persons take all the reasonable measures to minimize the effects of the pollution at their own cost.

Be replaced by

- (1) Where there is a storm water pollution incident as contemplated

in this Act, the owner of the property on which the incident took place or is still in the process of taking place or the person responsible for the incident shall immediately report the incident to the directorate.

- (2) The directorate may in its opinion require that such persons take all the reasonable measures to minimize the effects of the pollution at their own cost.

Amendment 14

Clause 21

- (2) The provision of subsection (ii) does not apply to the extent that the County has accepted responsibility for any of the duties in a formal agreement or in terms of a condition of servitude.

Be replaced by

- (2) The provision of subsection (1) does not apply to the extent that the County has accepted responsibility for any of the duties in a formal agreement or in terms of a condition of servitude.

Amendment 15

Clause 25

The County Executive member for the time being responsible for matters related to public works may make regulations relating to the manner of disposing water falling or coming to rest with private property.

Be replaced by

The County Executive Member for the time being responsible for matters related to public works may make regulations; subject to approval of The County Assembly, relating to the manner of disposing water falling or coming to rest with private property or any other matter relating to storm water management.

Hon. Speaker, I would like Hon. Booker to second.

(Hon. Booker, stands to second)

Hon. Speaker: Hon. Members, allow me then to propose the question which is;

THAT the Siaya County Public Works Bill, 2015 (County Assembly Bill No. 7 of 2015) be now read a second time.

Allow me then to put a question which is that the Siaya County Public Bill, 2015 (County Assembly No. 7 of 2015 be now read a second time.

(Question put and agreed to)

(Bill read a second time)

Hon. Speaker: I direct that Committee to ensure that they collect the views of the CECM in charge of Works and the Directorate so that when it comes to the third reading or when it goes to the Committee of the Whole House, they will have incorporated their views. Thank you.

MOTION

REPRESENTATIVE EXECUTIVE COMMITTEE

Hon. Speaker: Yes, Hon. Deputy Speaker!

Hon. Adera: Thank you, Mr. Speaker. I wish to move a Motion which is that:-

Aware that Section 35(1) (a) of the County Government Act, 2012 stipulates that the Governor, while nominating Member of the County Executive Committee shall ensure that to the fullest extent possible, the composition of the Executive Committee reflects the

community and the cultural diversity of the County.

Noting that Section 35(2)(c) of the County Government Act, 2012 further stipulates that the County Assembly shall not approve nominations for appointment to the Executive Committee that do not take into account community and cultural diversity within the County.

Concerned that the Governor, while nominating the CECM for Health Services and the County Secretary, did not take into consideration the mentioned sections of the County Governments Act, 2012, hence leaving out Ugenya Sub County unrepresented in the Siaya County Executive Committee, an action that made the Assembly refer back the nominations.

Considering that there is need to have a fully constituted Executive Committee, this House resolves that the Appointing Authority obeys the requirements of the law and constitutes a fully representative Executive Committee within 21 days.

Mr. Speaker, as I move this Motion, this House is privy to the fact that the Motion was moved in this Assembly on 23rd February, 2016, the Motion that was from the Appointment Committee to the effect that some appointees by the Executive were referred to this Assembly for approval, and looking at the Statutes and the Constitution, the Assembly made a decision that the names be referred back to the Executive.

The reason for the referral was that the appointments did not meet the threshold of the Constitution and of the County Government Act. These are two sets of laws that cannot be ignored. The Constitution is the granum and the County Government Act is the mother Constitution to most of the statutes that we

use in this Assembly. The section that we quoted, section 35(1)(a), stipulates that the Governor who is the appointing authority shall while nominating or appointing people to serve in the County Government must consider the cultural diversity. What we are saying in a nutshell is that Ugenya as a Sub-County has not been considered in the Executive appointment, leaving Ugenya out.

Mr. Speaker, the Cabinet of Siaya County is a Cabinet where most of the matters, about 95% of the matters are discussed, and if the Ugenya people are not represented then the Ugenya people feel that they are left out and they feel that they should be part of this Government so that whenever there's any matter of importance that is being discussed at the Cabinet level then the people of Ugenya also feel that they are represented and things as they stand today leaves Ugenya as a Sub-County out of this Cabinet of Siaya County.

In our Motion from the Appointments Committee on the 23 of February, 2016, the Assembly made a decision that the appointments that were made by his Excellency the Governor, did not meet the threshold as provided for under the County Government Act section 35 (1)(a), and section 35 (2)(c) prohibits the Assembly from discussing or approving the names if at all they do not meet the threshold. This Motion is therefore to compel the appointing authority to make or to include Ugenya as a Sub- County in the Cabinet, and it is giving the appointing authority 21 days.

I think, that is not abnormal, 21 day period is quite a long time. If at all we wanted to be stringent enough, then we would have given them even 7 days, but because we know while appointing

C.E.CMs, this is the sole mandate of the Governor. We don't need to advertise, we don't need to interview, but the Governor can head hack and that's why this Motion is giving a wide period of time to the appointing authority so that he can make wide consultations, he can even traverse the Ugenya as a Sub County so that he comes up with the best names possible to help him serve the people of Siaya County.

Mr. Speaker, this Motion is brought in good faith, given that we referred the names that we discussed on the 23rd February and today it's exactly 30 days, nothing has been done down the line and that is why we are compelled to move a Motion so that the Governor or the appointing authority moves with speed to put his Cabinet in order. As it stands, my other option was to move a Motion for dissolving the Cabinet altogether, but I found that to be a bit harsh and before I could do that, I we should move a Motion compelling the appointing authority to comply with the Constitution.

In essence, the decision that we made on the 23rd was simply telling the Governor or the appointing authority that they have not followed the Constitution, and the Governor has already taken 30 days but has not indicated any willingness to comply. And that is why this Assembly, being the House of rules and procedures, we felt it wise that we move a Motion to compel the Governor so that he follows the law, where he has messed he can put things in order.

I do not want to belabor a lot because the Motion is a straight forward one since it has arisen from the decision that we made on the 23rd of February, 2016, where we referred back the names because they were not meeting the threshold of the County Government Act,

the Constitution and other statutes that we use in this Assembly and anywhere even in the Commonwealth Countries. And therefore I beg to move and wish to invite Hon. Mary Consolata Ajwang to second.

Hon. Ajwang: Thank you, Mr. Speaker, Sir, I rise to second.

Hon. Speaker: Thank you. Hon. Members, allow me then to propose the question which is that;

Aware that Section 35(1)(a) of the County Government Act, 2012 stipulates that the Governor, while nominating Member of the County Executive Committee shall ensure that to the fullest extent possible, the composition of the Executive Committee reflects the community and the cultural diversity of the County. Noting that Section 35(2)(c) of the County Government Act, 2012 further stipulates that the County Assembly shall not approve nominations for appointment to the Executive Committee that do not take into account community and cultural diversity within the County,

Concerned that the Governor, while nominating the CECM for Health Services and the County Secretary, did not take into consideration the mentioned sections of the County Governments Act, 2012, hence leaving out Ugenya Sub County unrepresented in the Siaya County Executive Committee, an action that made the Assembly to refer back the nominations,

Considering that there is need to have a fully constituted Executive Committee, this House resolves that the Appointing Authority obeys the requirements of the law and constitutes a fully representative Executive Committee within 21 days.

Yes, Honorable Muhula!

Hon. Muhula: Thank you, Mr. Speaker, Sir, I rise this afternoon to put my foot down on this Motion. Sincerely from the bottom of my heart, I want to sympathize with the mover of the Motion and maybe Ugenya at large. Many a times we are disappointed in this House, Ugenya normally puts their cries, but on a lighter note, may I remind the Ugenya people that the First Lady of this County comes from Ugenya.

The main reason the New Constitution of Kenya was highly supported and promulgated in the year 2010 was the issue of devolution. And one of the pertinent issues in the devolution was the issue of equity and equality. With this remark, I would not want to refuse and accept to acknowledge that the intention of the mover of this Motion is actually well thought and is in order. The very force of devolution must equitably be distributed in all the six Sub-Counties.

(Applause)

I will not refrain from accepting that there are other Sub Counties that are big beneficiaries of this County Government more than others which is contravening that same act of devolution spirit that we need to uphold. Since the onset, from the day the CEC Members were sworn, the docket of Health has always remained to be Ugenya, starting from the Late Dr. Adala, and then we went to Dr. Owilla. On the 3rd attempt we were wondering what the Governor thought, that prompted him to substitute

(Applause)

the seat that was a reserve for Ugenya people be given to somebody coming from

Kisumu. This was ill timed, and we suspect there was an intention which is not good for this County. The Ugenya People voiced and truly there is a say that if somebody pats your back today then possibly tomorrow he will need you to pat his back. I urge this House to pat the backs of the Ugenya people,

(Applause)

that thing must conform to the Constitution as it is directed in Section 32(C). That this House should never at any given moment approve the appointment unless it conforms to community and cultural diversity. Ugenya is not, other than being Luos speaking Luo, our characters and charisma could be very different from the characters and charismas of the Ugenya people, that one qualifies the control diversity.

Hon. Speaker: Yes, Honorable Walter Okello, you have a point of order!

Hon. Okello: Mr. Speaker, I am sorry to disrupt the Hon. Member, but if I got it right, the Hon. Member indicated that the seat for Health is a preserve for the Ugenya people. In the first attempt it was a person from Ugenya as well as second. Is the Member right to suggest that the seat for Health, the docket for Health is a preserve for Ugenya people?

Hon. Speaker: Honorable Muhula, Is it legally a reservation for the Ugenya people as alleged?

Hon. Muhula: Mr. Speaker, Sir, I get the concern of the Hon. Young man but my intention...

(Laughter)

Honorable Muhula: Mr. Speaker, Sir, the Honorable Walter Okello...

Hon. Speaker: Hon. Muhula, will you withdraw...

Hon. Muhula: Most obliged, Mr. Speaker. My intention was to put it more or less that it has been a tradition, maybe the Hon. Member did not get me, but I said it is more or less a tradition that the first appointment was the Late Dr. Adala from Ugenya, the second was Dr. Owilla, an Ugenya person. So we were wondering why this 3rd appointment was not going sequential. I hope I am within the plight.

Hon. Speaker: In terms of tradition you could be right, but that it is a reservation, you would be out of order.

Hon. Muhula: Mr. Speaker, Sir, substitute it with the word tradition. In all fairness and as human beings, definitely we must be beaten by emotions, I think it's very good and I would urge the County Government in their line while bringing upon them or distributing any good thing to any Sub-County, we must stand to observe the principles of equity and equality. I beg to support the Motion.

(Applause)

Hon. Speaker: The Hon. Member for Central Alego!

Hon. Oriaro: Thank you, Mr. Speaker, Sir. One, the reason the County faulted its sons and daughters in the second liberation struggle while we had a monolithic system was when a cry of our bridle in the context and in the regime of governance was all about the crime of exclusion, operation and repletion. And indeed we now have the new Constitution, one of the gains the son to my aunt has spoken, Hon. Muhula, was that the aspect of governance in it all, in the delivery of

democratic goods take cognizance of the ubiquitous own.

Honorable Kadera, our respected Deputy Speaker has brought in a sense of merely correcting the treatable, he has not gone far, the law the way it is would have made him, and through this Assembly we go far. Exclusion is a crime in Governance and the delivery of democratic goods. We are so lucky, that the Constitution talked of having 10 CECMs at most, and we have always enjoyed that honor as a County, those are Members of the Executive Committee or the Cabinet as they call it.

The Governor is there, His Deputy is there, and the County Secretary. We are having already 13 Members, we've got only six Sub Counties, that means if we were so equally looking a Sub-County would never miss out in the Cabinet. We are addressing the Governor in this Motion because he has got all the powers to appoint and disappoint! We are also questioning the misuse of the power to appoint and disappoint because he has got all the power to appoint and disappoint.

We are also questioning the power to appoint and disappoint in the context of subjugation because minus representation in the Cabinet naturally translates into subjugation and the consequences are very clear. We beg our Governor to stand tall in the context of the application, demonstration and of the spirit and letter of the Constitution. Only one out of the 13 Sub Counties as Ugenya is would not be missing out. The Governor as a political appointee ought to appreciate that more than anybody else; we are appealing to him to bend low if that is what we want to see in quotes to see to it that Ugenya is represented in his County Government in this Executive.

I conclude that politicians, political creatures of electioneering always fear when the time comes in 2017, we will noisily look for votes. Does the Governor tell us that he has already erased his concerns for Ugenya in his time of plenty and in 2017 what shall he tell us, he is out of Ugenya? And naturally Ugenya has got a brother, Ugunja, so he has excluded himself from that electioneering that will see to it that he harvests the votes from Ugenya.

We see him very consistent in salivating for another run, so as people who are naturally seen to be the ones giving out the agenda to the public in what awkward situation is he telling us? Fortunately, the first lady of our County comes from Ugenya; could it be that Mrs. Amoth represents Ugenya people? We want the County of Siaya to---

Hon. Speaker: Hon. Oriaro, Order! Order!

Hon. Oriaro: Siaya to come to turns with reality so that we have a representative from Ugenya. I support.

(Laughter)

Hon. Speaker: Hon. Oriaro, you want to make it also a tradition that when the Speaker interjects you, you continue talking? Be warned that if you do that again you will be ejected. I want to plead with Hon. Members to exclude the name of the first lady in this House. She is not here to defend herself and that is out of Order. Yes, Hon. Okuku.

(Applause)

Hon. Okuku: Thank you, Mr. Speaker, Sir, for giving me an opportunity to air my voice in this Motion this afternoon. I rise to support the Motion and I want to talk briefly because the Motion is very long. Section 35 (2c) of the County Government Act gives authority for the

Assembly like this to do what is called the correction to what we see as an imbalance to the Cabinet of any sitting Governor.

I want to appreciate that this Assembly having thought it wise and well rejected binomials of the Governor because of imbalances that they felt was really in the County Government of Siaya. We are not here to beg the Governor of Siaya to search into pastoralizes of the Ugenya community for bringing up CEC Member. I don't want the message to go to him that we are begging and praying, he must do it; there is no option on that.

(Applause)

And if he thinks that he can joke around and won't take somebody from Ugenya then we will dissolve the cabinet of H.E. Cornel Rasanga. After 21 days, if he cannot come up with somebody from Ugenya then I am ready to bring up a Motion to dissolve the cabinet so that it is reconstituted. Let him get the message clearly and let him keep his distance from us and we transact our business of the people of Siaya.

I am very happy that the Motion has been tabled by my closest friend, Hon. Adera because the Governor has walked around telling the people of Siaya that he has bought Hon. Adera and the people of Ugenya should ask Hon. Adera if they want a cabinet minister in their region.

I am happy that it has been brought by him and it is sort of clearing his name that he wasn't bought because when the Governor was going around and saying that on the issue of cabinet they have squared with Hon. Adera and I even saw his new car, registration KCF and I thought there is something happening around.

(Laughter)

Hon. Speaker: Member for Yimbo East, don't go that direction, proceed.

Hon. Okuku: Thank you, Mr. Speaker, Sir, I am happy and I will continue respecting the Member for West Ugenya because he has cleared the air that he has not been bought and let the Governor do his duty with a lot of respect and abide by the timelines which have been brought up with the Constitution of Kenya and the County Government Act. I want to urge and request my friends from Ugenya community that the easiest thing after we have approved this Motion this afternoon, is also to ensure that they withdraw their sister from being the Governor's first wife.

Hon. Speaker: Hon. Okuku, I want you to withdraw that Statement because I had warned that you do not malign people's names that don't have the opportunity to sit here. Will you withdraw your Statement?

Hon. Okuku: Yes, I withdraw, it was wrong

Hon. Speaker: Thank you, Hon. Nguere.

Hon. Nguere: Thank you, Mr. Speaker, Sir, whatever I was seeking that time was really a clarification. Normally we use microphones and they make us audible enough but must we use them because you find that Hon. Oriaro when he speaks he is micro phonic enough so if you could, maybe occasionally just request him to talk without using a microphone because for us to say anything...

(Laughter)

By the time we leave this Plenary we go straight to the doctor's bill. If we don't have to use the microphones and we are loud enough, can we be allowed to do without them?

Hon. Speaker: Hon. Members there is no Standing Order that talks about use and non-use of the microphones but if a voice or use of the same is destructive even to our health then that will be addressed properly. Yes, Hon. Member for Ukwala.

Hon. Odinga: Thank you. Mr. Speaker, Sir, I want to join my colleagues in supporting this Motion and first and foremost I want to thank my colleagues on the decision they made on 23rd February, 2016, that is on recalling the names so that the Ugenya community or sub County go through them. A lot has been said by nearly every speaker who has been on the Floor.

It is true that the CECM, which is the top most organs in decision making in the County Executive level, Ugenya Sub County is not represented and it is our feeling as Ugenya people that when decisions are being made at that level that the Ugenya people should also be included in CECM Committee.

I also want to appreciate my colleagues in that Section 35 (2c) clearly says about inclusions and it is true going by their decision that we really looked at that section in the county Government Act of 2012 and as an Assembly we are going on record as having depended low at all costs. I don't want to take much of my colleagues' time; my appeal is that I urge Members to support this Motion so that among the representatives at CEC Committee is constituted within the stipulated 21 days so that everybody is represented in that very important Committee. Otherwise, I beg to support.

Hon. Ogutu: Thank you, Mr. Speaker, Sir. The spirit of devolution was for equity and equitable distribution of resources and appointments. As a lady

from Alego Usonga Sub County, I have heard the cry of Ugenya people because it is part and parcel of this County and it will be very difficult for us here with the Governor Cornel Rasanga to go to Ugenya to defend the seat of Governorship if this position is not given to them. It will be very difficult to cross river Nzoia because people there will ask what he is going to do there if one of them was never appointed in the cabinet. If none of us was never even a driver in your cabinet.

I want to support this Motion by saying that the Ugenya people should not be neglected and by saying that it should go straight to the Governor of Siaya, that he would rather sacrifice one of the CECMs from Alego Usonga to get the Ugenya people a seat because it is not helping staying with three CECMs as we neglect a sub County in this County Government. I also want to say that we know that Dr. Ong'udi is very qualified and we would really like to get his services but it is too late, the remaining time will not even allow you to do much. The remaining time is for looking for votes.

Hon. Speaker: Hon. Ogutu, you are out of Order, Ong'udi is not part of that Motion.

Hon. Ogutu: Thank you, Mr. Speaker, Sir, as I conclude that Ugenya people deserve to be given a CECM slot so that their interests would be represented in that Cabinet, Thank you.

Hon. Owii: Thank you very much, Mr. Speaker, Sir, and the Hon. House. Strangely, I will add my voice to the cry of our brothers and sisters from Ugenya, it is true that the constitution should be followed; the County Government Act should also be followed and anytime any appointment is done.

It's like we are closing our eyes and we are ready to walk the ladder of success with fear by not mentioning how many CECMs are coming from each and every Sub County.

We are only talking about Ugenya with that one CECM and with the hope that the one CECM has to be for health like it was said it is a tradition. I want to say that equity and equality should be observed, we cannot afford to have so many CECMs coming from one Sub County. We want to know what is so special about them and also they are just there and they are not even performing.

(Applause)

Those who are actually in those comfort zones are very quiet about the problems of others. There are areas like when we mention Alego Usonga if you allow me, Mr. Speaker, Sir. I don't see the reason why they should have three when they even have the whole Governor coming from Alego Usonga and it's not bad to say that because any sort of a person would see that there is need for element of equity. We have seen in the past, what happens in this Country with the National Government.

We have quite a number of Communities that from the time when we got independence to date they have never seen what we would call a minister or a cabinet secretary but for this time round maybe they can see people with the name CECM, so, I want us to walk tall and say that the cabinet should be reshuffled so that consideration be made that we dilute the element of Ugenya must actually get CECM for health when they can't even afford to do it.

We may be pushing them into giving us what they don't have. I would have wished that in our recommendation to

the Governor we propose that he reshuffles his cabinet and then we come up maybe another CECM from Ugenya but not necessarily for health. Ugenya must actually produce a CECM for Health even when they cannot afford to use it.

We will be pushing them into giving us what they don't have. I would have wished that in our requisition to the Governor, it would be better for us to propose that he reshuffles his Cabinet and then we can propose a CECM from Ugenya but not necessarily for Health.

Hon. Speaker: Hon. K'Owii, the Motion is not saying that the CECM who should come from Ugenya should be in the Health docket. It is not even the business of this Assembly to direct the Governor which places the CECM should come from. So, confine your debate to the inclusion of Uyoma in the Cabinet the logic is for the Appointment Committee.

Hon. Owii: It is Ugenya and not Uyoma.

Hon. Speaker: Yes, Ugenya.

Hon. Owii: I am sorry but I just wanted to open our eyes that we don't need to create a tradition. I wanted to request that we should not create a tradition that we will not continue with for a long time, that we have it such that if it is Education, it has to come from Rarieda even if Rarieda cannot produce someone who can manage the job.

I want to request as I sit down...

Hon. Odinga: Point of Order.

Hon. Speaker: Let's listen to the point of Order, Hon. Odinga.

Hon. Odinga: Mr. Speaker, Sir, I just wanted to ask whether it is in order for Hon. K'Owii to insinuate that Ugenya people cannot produce a CECM Health because he has continually made reference to the fact that we might be pushing it for

Ugenya but they cannot afford to do it. Is it in order, Mr. Speaker, Sir?

Hon. Speaker: I think Hon.

K'Owii was giving an example that we should not assign positions to Sub-Counties where necessarily somebody does not have qualification from that region, but maybe the Speaker didn't get it right. Hon. K'Owii you are in a better position to explain, are you saying that Ugenya is inadequate of doctors, for example?

Hon. Owii: How could I be that malicious?

(Laughter)

I am saying that if they give them these posts, in most cases they don't meet the threshold. I am trying to say that when we are observing devolution, we actually use the Constitution and the County Government Act in totality. We don't need to look at it without respecting the rule that 30% should come from without because our people are also working in other Counties.

So, when we close our doors that nobody will ever come and work in this County, and then we are not actually observing the rule of law because the 30% allows maybe 1 person out of 10 to come and join us here in any capacity.

The reason I was talking about reshuffling is that the candidate sometime back was a very ideal candidate and if at all reshuffling would be done, and we have at least a docket for the Ugenya people, then still we would have maintained that rule. It would have been better for us to do it in that manner than just throwing it to the dogs.

I just want to say that we should not close our eyes, Hon. Members, we should not have fear, and we should face

the Executive and tell them that enough is enough. In those particular areas where the Deputy Governor is coming from or where the Governor is coming, you see they have 3-3 and we only have 1-1. Should we just be quiet?

(Laughter)

People like Omollo K'Owii will never shy away from saying the truth because actually it is a sad situation. This looks like what we can see at the National Level where the two gentlemen are taking a large share. This is not the best way to go. I have every belief that they will change, but they can only change when we tell them. We can even decide to send the entire CECMs home, but the Appointing Authority can decide to appoint them again although the truth is that he should spread it in each and every corner.

When we are talking about Siaya, we should be talking about communities and not just Sub Counties. We have communities called Uyoma, Asembo, Yimbo, and Sakwa. These are the communities that form what we call Siaya and not the Sub Counties. Sub Counties are not communities and the Constitution is addressing communities not Sub Counties. I have every belief that if you open their eyes they will see that they have done us a lot of harm. Thank you, Mr. Speaker, Sir, I support.

(Applause)

Hon. Speaker: Hon. Were.

Hon. Were: Thank you very much, Mr. Speaker, Sir, the situation that is confronting this Parliament is Gethseman. It reminds me of Jesus's journey from the garden of Gethsemane.

(Laughter)

I have looked at the whole situation and there is the law, the conscience and the person. The office of the Governor is a creation of the Constitution and the Governor is the custodian of the law. I have been asking myself that when you deprive a section of the population of instruments of governance and the way they participate in governance, it is purely oppression and through the years you see that this Parliament has been a slave, the Ugenya Parliamentarians have been asleep because they have been caught jestering.

(Laughter)

Hon. Speaker: Yes, Hon. Ndonji.

Hon. Ndonji: Mr. Speaker, Sir, my stand is well known in the whole County and in the whole world; I want him to withdraw that statement.

Hon. Speaker: Are you rising on a Point of Order?

Hon. Ndonji: I want him to withdraw that statement that we have been caught jestering because there is no time in my life...

Hon. Speaker: If you are rising on a point of Order, take your seat. Hon. Were, you are aware that is unparliamentarily and it is demeaning to your colleagues.

Hon. Were: I withdraw that statement. My concern, Mr. Speaker, Sir, is that I see perversion and somebody is averting the popular will of Ugenya Sub County residents to be represented in our County Government and we are coming out to say no. We have to be together because if we go separate ways we will be hanged separately but if we stick together

then we will achieve our role of representing our people.

I was asking myself, if you look at the flock and the shepherd in normal practice, if you are in the state of Israel, the flock will follow the shepherd but in our African set up the flock will be in front of the shepherd. That is our situation that we have to contend with and accept that we have lost focus. Today, because this Parliament is expressing its will that the law should be followed, I want to tell my colleagues who are coming from Ugenya Sub County that we are with you together in this and we are telling the people in the Governor's office that equal representation should be given space.

I wanted to say that the Office of the Attorney is lacking in Siaya County and if there was the Office of the Attorney, then I think the Office of the Governor would be able to enjoy the privilege and right of being advised. I support the Motion.

Hon. Okello: Thank you very much, Mr. Speaker, Sir, the Motion has effectively been discussed and is coming at a very good time. My only regret is that it did not come earlier.

This House has stood up today to defend the Constitution which is one reason we are sitting in office as protectors of the designations within the Constitution which for us is the Supreme law. It has been said that injustice anywhere is injustice everywhere, today we are talking about Ugenya but this is a message that what we are actually talking about is injustice in the whole of Siaya County.

First I want us to appreciate that when we are talking about Ugenya, my step mother comes from Ugenya, so when we rise here we are not just talking about Ugenya as a region but we are talking

about the whole of Siaya so this is about all of us, about Siaya County.

The reason I stood up is because the essence of this Motion should go beyond the appointments to the Cabinet. I am deeply concerned about the other slots we have for appointment. I am concerned about the slots we have for Chief Officers, if we are to do an audit of the Chief Officers we have in this County you will not be surprised that the Sub County where we are headquartered today, Alego Usonga; is having about 5 Chief Officers. I could be wrong. Other Sub Counties that the Hon Owii talked about could be having about 4 and then other Sub Counties from the other communities will be having none.

So, this is a very dangerous situation I want people to urge the Governor and the Office of the Governor, by virtue of this Motion to do an internal audit on their staffing and the appointments they have made in terms of representation of communities and in terms of communities, gender and age.

I want to urge the Office of the Governor to take advantage of this Motion and do an internal audit before the Assembly analyses it. When Hon. Elisha brings the Motion of devolution, I think it will be based on the Audit, so kindly people take the opportunity to ensure that we have justice in terms of representation of the youth, not just in the Cabinet alone but in the other vital appointments that have been made.

There are several appointments of Directors for several departments in this County, a lot of them are so skewed and you would think that these things are a replica of what is happening in the national level as a lot of Members have been saying.

At some point when we were discussing Budgets, I realized that the Executive was intentionally distributing Budgets for flashy projects. We are aware that it was in favor of a certain Sub County particularly in certain Wards where key people come from. I believe this is not what the veterans of Devolution, people like His Excellency Raila Odinga fought for wildly when they were fighting for devolution to come to the smallest person irrespective of where the Governor or Speaker comes from. Every citizen of this County should have access and fairness so that they can feel the power of devolution is serving them well and they are the beneficiaries of fruits of devolution.

Further, I want to confirm to this House that it is not about Electioneering alone, it should not be done so that we target votes but we need to do this so that service delivery is effective. In this pronouncement, even the CECMs should appreciate the concerns of this Assembly, that besides going for Tuesday meetings and prayers at the Governor's office, they should also sit there on behalf of communities; they should create time regularly and sit with them.

For instance, I have never heard of a situation where the CECM who comes from Rarieda has called the Hon. Members from Rarieda and sat down with them to hear their views so that they also sit at the cabinet to present the views of *Waheshimiwa*.

I am not aware if the *Waheshimiwa* from Bondo have had the opportunity to interact with the CECMs from Bondo so that besides just sitting and doing the work they were given, it is also important for them to consult regularly with the leadership of this House so that this representation is carried forward and

people of Siaya County know that there is a working relationship between the Assembly and the CECMs for the benefit of themselves and for service delivery. I support the Motion as it is.

Hon. Minami: Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this Motion. I want to thank the Mover of this Motion. Much of what I wanted to say has been captured by my colleagues, specifically Hon. Walter.

What we are witnessing in this County, is what is going on in this Country. Just as Hon. Okello has said, whatever is happening in Siaya County is a replica of what is happening in the Country of Kenya where you find one or two tribes are dominating in the public service and at the County level, you find that one or two Sub Counties are dominating. Hon. Okello even talked about Advisors or Directors. Look at the drivers, all the staff employed in this County assembly, you will find that 65% of the staff is coming from one particular Sub County.

(Applause)

With this kind of trend, I think majority of the other Sub Counties are not benefiting from devolution that our forefathers fought for. I think as an Assembly, whenever we have an opportunity we should audit, the other time the Public Service Board for the County brought here list of employees for the County and if you look at that list, almost $\frac{3}{4}$ of employees of the Government of Siaya come from 2 Sub Counties; Alego Usonga and Bondo, and Mr. Speaker, Sir, if we continue with this scenario, I think majority of our people will not see the importance of even voting. We will have voter apathy because sometimes decisions

are made elsewhere and we are only supposed to rubberstamp them.

If such actions are going to recur in the future and with the kind of scenario in terms of employment in this County, we will end up having voter apathy and this may affect our performance at the national level.

Mr. Speaker, Sir, you have given a directive that we should not be talking about the First Lady because she may not have the opportunity to defend herself. All of us have agreed to that, but Mr. Speaker, I have seen a letter from the Office of the Governor but has been signed by---

Hon. Speaker: Will I see the letter before you read it?

(Hon. Minami handed over the letter to the Hon. Speaker)

(Loud consultations)

Hon. Minami: Mr. Speaker, Sir, as you see it, I would like to say that when two sub counties have a total of eight members in a cabinet comprising thirteen members, then it means that the remaining four sub counties are left to share the four, one slot each. As the Mover of the Motion said, as an Assembly, let us follow the spirit of the 2010 Constitution, the County Government Act, 2012 and the Standing Orders of this Assembly to bring sanity in the manner in which key appointments are done in this County.

A CECM appointment is not for politics. I want to tell my colleagues that this is not about votes; this is about delivery. All corners of this County should be represented at the highest level of decision making in this County. In fact, I want to thank this House for the decision they made on the 23rd of last month by

referring back the names that were brought here by the Governor for appointments.

Mr. Speaker, Sir, in November last year, this House passed a Motion that was brought by the PIC/PAC Committee and one of their recommendations was that some CECMs who are bringing a lot of imbalance right now should have vacated office by now. These are CECMs who don't respect this House and cannot even account for the resources allocated to their offices.

(Applause)

If I was the Governor, I would just pick a copy of the PIC/PAC Report and implement it in one day and with that, he would have resolved the issues that we are now addressing.

(Applause)

But if he still holds on to those CECMs, I want to assure him that after failing to deliver services to the people of Siaya and denying them representation, the time for looking for votes, as said by our colleagues, will come; and he is going to regret why he failed to implement the PIC/PAC Committee Report which I believe is just gathering dust in one of his shelves.

Mr. Speaker, Sir, now this is what we call oversight and I only wish that we would have done this from the word go and did it continually. The mess currently bedeviling this County would not have been there. So, I want to call upon my colleagues that we continue doing what is within our constitutional rights in correcting the wrongs that somebody thinks he can continue perpetuating.

Mr. Speaker, Sir, I am almost finishing and I wanted to read some letter—I don't know if---

(Laughter)

Hon. Speaker: I have not authenticated the letter.

(Laughter)

You have eloquently put your points forward and I know that even without this letter which I have seen, you have driven your point home.

Hon. Minami: Thank you, Mr. Speaker, Sir. I support.

Hon. Speaker: Thank you! Yes, Hon. Agoko, Member for Sidindi Ward.

Hon. Agoko: Thank you, Mr. Speaker, Sir. I am happy that this House is taking this direction. It is in the air all over that the County Government of Siaya is getting to the dogs. When somebody mentions the County Government of Siaya, the Assembly is included and it is the mandate of this Assembly to drive the County Government towards the right direction.

Mr. Speaker, Sir, I have heard Ugenya being referred to in many versions. Hon Oriaro stated that there is a lot of subjugation of the Ugenya people; according to Hon. Were, the Ugenya people are oppressed; and instead of this Assembly driving the point home, people are talking of strategies for the Governor to win the elections. How do we talk about a failed government winning elections?

(Applause)

It is not within our mandate to talk about winning elections; but to ensure that things are done in the right manner.

Mr. Speaker, Sir, I support this Motion and I humbly ask the House that we maintain this spirit to ensure that the right things are done to our people and ensure that citizens of Siaya receive what is rightfully theirs. Thank you.

Hon. Speaker: Thank you. Yes, Member for East Asembo.

Hon. Angul: Thank you very much, Mr. Speaker, Sir. I would also like to add my voice to this Motion by Hon. Steven K'adera of West Ugenya and I must say that it has come at the right time. Recently, we were in a funeral and H.E.the Governor of Siaya County stated that he had already talked with the Ugenya people regarding the issue of the CECM. It was an embarrassing situation and I think Hon. K'adera has done the right thing to exonerate himself from that blame. It was very bad for the H.E the Governor to speak in such a manner in a funeral.

Mr. Speaker, Sir, it is the right of the Ugenya people to be represented in the---

Hon. Owii: Point of order, Mr. Speaker, Sir!

Hon. Speaker: Yes, Hon. K'owii.

Hon. Owii: Thank you. Mr. Speaker, Sir, on the issue of H.E the Governor talking in funerals; are they issues that we should talk about in this particular House? It is not a Statement but just a rumor that should not even be debated.

(Loud consultations)

Hon. Angul: Mr. Speaker, Sir!

Hon. Speaker: Order!

Hon. Owii: Order!

(Laughter)

Hon. Speaker: Actually, I was waiting to hear if his mention of funerals would adversely mention another character or a name before I rule him out of order. But for now, I think he is still going to talk about the substance. Hon. William, you realize that all that time you have not talked any substance.

(Laughter)

Hon. Angul: Thank you, Mr. Speaker, Sir.

(Laughter)

Mr. Speaker, Sir, I think on that day we met you on the road on your way to the funeral...

(Laughter)

Hon. Speaker: That is not even substance at all!

(Laughter)

Talk of material facts, Hon. William!

(Laughter)

Proceed!

Hon. Angul: Mr. Speaker, Sir, I want us to support this Motion. On 23rd February, we really supported the Ugenya people and we agreed that they do not have any representation in the cabinet. So, when he said it during the funeral, then it meant that the Governor had some sort of intention. I have thanked Hon. K'adera because it was pointed out by the Governor that he had already finished with Members from Ugenya.

(Laughter)

Thank you, Mr. Speaker. I don't want to go far but to only reiterate that

Hon. K'adera has done well because he was pointed out during that funeral.

(Laughter)

Hon. Elisha Okuku had already pointed out here that after that, Hon. K'adera---

Hon. Speaker: Order! Order! I said don't go there!

(Laughter)

Hon. Members, it doesn't add you any points mentioning the places you meet the Speaker.

(Laughter)

Yes, Hon. Majority Leader

Hon. Otieno: Thank you, Mr. Speaker. You realize that the debate has been very healthy this afternoon and it would be wrong if I don't add my voice yet I also come from Ugenya.

Hon. Awuor: Ugenya!

Hon. Otieno: Hon. K'awuor, you know how Ugenya and Ugunja came into being. I must say that Members who have contributed this afternoon have Ugenya at heart and there is need to see some seriousness from the Executive. CECMs are supposed to come from within the County and you find that out of ten, there is none from Ugenya. We had to raise issues with that. The Ugenya people cannot be here to talk for themselves and that is why we as their representatives are doing it on their behalf. That is our job.

(Applause)

I must support what my colleagues have said about this. We are not just saying these things from the skies. We have properly articulated them and even the Deputy Speaker who is the Mover of

the Motion has properly captured it by referring to Sections 35 (1a) and 35(2C) of the County Government Act which clearly states that all parts of the County should be represented in the cabinet. That is what we are shouting loud about and it has to be done.

Mr. Speaker, Sir, we are not violating the 30% rule; but I don't think that it is only Ugenya that should be sacrificed. They are also stakeholders in this County and should be given consideration.

Mr. Speaker, Sir, a lot has been said but I want to propose an amendment that it should not be 21 days, we should reduce it to 14 days for the Executive to respond or act. Having said that, I would like to ask Hon. K'awuor to second.

Hon. Speaker: You are out of order!

(Laughter)

We had debated this with the Mover of the Motion and looked at the practicality of the 21 days. Hon. Members, I don't think it will be harmful to give the appointing authority additional days because we don't even stop him from doing that tomorrow. We should not be seen to be disadvantaging him in his administrative roles. There is no harm. I think so.

Hon. Otieno: Most obliged, Mr. Speaker, Sir.

Hon. Speaker: Thank you! Any further contributions? Yes, Hon. K'awuor.

Hon. Awuor: Mr. Speaker, Sir, I am on my feet to support this Motion and I want to really thank the Mover. The voice of the House is almost being heard and mine should also be heard. One thing I want to share with Hon. Members of this

House is that 30 days are quite many and the Governor should have acted.

(Applause)

During the period that we have not had a substantive CECM for Health, we had a problem in Siaya and Alego Usonga, Ugenya and Ugunja sub counties had cholera outbreaks.

Hon. Ombee: Thank you, Mr. Speaker, Sir. I want to appreciate the Majority leader whom I have much respect for. I want to urge that the Governor should act immediately and not wait for the given 21 days. All the issues of 30% have been addressed here and I want to say those are not going to be subjected to only, but it should be looked at in entire Siaya County.

So for audit purposes I think those issues need to be addressed. The audit of the entire Siaya County staff is to let us know who comes from where because Devolution didn't come to this County just for a certain section of some people in this County to enjoy but it's for all of us.

Hon. Speaker: Hon. Members, as I mentioned; one of the reasons we made 21 days is because you know we are going on a short recess next week on Thursday. So, even if we say 14 days, the 14th day will fall when we are on recess. We don't just want to do things for the sake of it, 21 days is good enough we come back and if no action is taken, the Assembly pronounces itself. Yes! If there is no any other contribution then I call upon the mover to reply.

(Loud consultations)

Hon. Adera: Thank you, Mr. Speaker, Sir. There are various issues that

have been raised based on this Motion and I wish and hope to respond to them all. Hon. Muhula, of course I will do a summary. Hon. Muhula of West Alego a place called Wagadia stated in.....

(Laughter)

Hon. Speaker: Yes!

Hon. Muhula: Thank you, Mr Speaker, Sir, I would want you to ask the Hon. Member for Ugenya West to withdraw that statement, I represent West Alego and I don't know where Wagadia is coming from.

Hon. Adera: Thank you, Mr Speaker, Sir. I withdraw but the fact remains that Wagadia is part of West Alego and the Hon. Member is disassociating himself from Wagadia because the said people are renowned cattle thieves but I don't want to dwell on that. You can also see Hon. Muhula laughing because he knows it.

(Laughter)

On a serious note, I want to appreciate all the Members who have made their contributions on this Motion. I am very happy this evening that the Motion has drawn a lot of support given the fact that the Members have contributed almost 100% in support.

I wish to respond very quickly that Hon. Muhula stated that the people of West Alego should not complain because the First Lady comes from Ugenya. We are aware that the First Lady is married in Alego and therefore her association with Ugenya was cut off the moment she was married to the Governor and they were given dowry.

We do not see anywhere in the Constitution, Standing Orders, Statutes and even the County Governments Act where the First Lady is mentioned. Therefore the issue of First Lady should not arise anywhere in this House and there are many Members who have alluded to this including Hon. Walter Okello when we were debating over the issue of appointments on 23rd February, 2016 and that matter should be put to rest.

So, today we should agree that the First Lady is not an appointee of the County Government and any Member coming here after today should not bring up the matter or else I will take it as an insult to this House.

(Laughter)

(Applause)

Hon. Speaker: The issue of the First Lady is concluded even by the chair.

Hon. Adera: Yes, it's concluded. Secondly there is a Member who raised an issue whether the position is a preserve for Ugenya sub County. I want to say that the issue of Ugenya only arose when we felt that all appointees were coming from these other sub Counties and not Ugenya.

We have never complained before but we are doing so now because the issue arose about two or three months ago otherwise we never complained because our people were represented.

The first person who was there was Dr. Adala who is now diseased and may God rest his soul in peace, then we had Dr. Owila who was sacked and we had to protect that by ensuring that the next appointee for the same position or any other position in Cabinet should come

from Ugenya and I am sure we are not asking for too much.

There is also an issue that arose to the effect that immediately after 23rd, after going through the Motion of deferring the list of the two appointees that was taken back to the Governor that I bought a motor vehicle, KCF 356C. I don't think I need to respond to that because I just bought a vehicle the way any other Member can buy, more over it was not such an expensive vehicle so to say.

Hon. Speaker: Point of Order! Oder! Order! Yes.

Hon. Owii: Some of us don't sit where people do a lot of rumour mongering; we depend on what normally comes to this House. The issue of the car when we started contributing here was not mentioned. Therefore, it's very unfortunate to drag issues that can even make us withdraw from this Motion.

(Laughter)

So, I request the Hon. Member who is the mover of this Motion to restrict himself from dragging issues that are not concerned with the Motion.

Hon. Speaker: Thank you, Hon. Members, let's proceed.

Hon. Adera: Thank you, Mr Speaker, Sir, it seems that the Deputy Majority leader was not in the House when Hon. Elisha brought up the issue immediately after---

Hon. Speaker: He had withdrawn that statement and we even struck it out from Hansard, just proceed with relevance to the Motion.

Hon. Adera: Thank you, Mr Speaker, Sir, my next item to respond to which was raised by the Deputy Majority leader that perhaps in Ugenya we have no

capacity to produce members who can be in the Cabinet. My response to that is that in Ugenya we have people of various professions for example Doctors, Teachers, Lawyers and many more. Referring to the issue at hand in Ugenya, we have people like Dr. Yonga, Dr. Jeffry, Dr. Odongo, Dr. Otieno, Dr. Ombino and Dr. Sawa.

Others are Dr. Kenneth Odhiambo who is a senior consultant at Migori District hospital, Dr. Omondi Yuya who is an MD at Kenyatta Hospital, Dr. Soti, Dr. Agunda Ochanada who is the CEO of Moi Teaching and referral hospital. In fact when we were having cholera outbreak in Ugenya sometime back, Dr. Agunda marshalled staff from Moi Teaching and referral hospital and camped in Ugenya for about three weeks trying to contain the disease.

We also have Dr. Atieno Roseline, Dr. Angawa Kenneth who is also at Kenyatta Hospital. The list is long and all the doctors that I have mentioned, about 70% of them confirmed to me that they applied to be considered in Siaya as civil servants. The appointing authority felt that they were so useless that they could not be considered and as I have said, especially Dr. Agunda, who marshaled staff from Moi Teaching and referral hospital to help people of Ugenya and ...

Hon. Speaker: Yes!

Hon. Okuku: Is it in Order for the Deputy Leader to continue misguiding this House that Dr. Agunda is a doctor while Agunda is there in the capacity of an administrator! We know that Agunda comes from Ugunja constituency, Sidindi Ward and not Ugenya.

Hon. Speaker: Hon. Members, I don't know these people and what they do, whether the names are identical or they are

referring to the same people; or are they the ones from Sidindi!

(Laughter and Loud consultation)

Hon. Adera: Mr. Speaker, when you speak of Otieno as a Member of County Assembly, next to me I have Hon. Otieno and to my furthest right I also have Hon. Otieno from Gem; so I don't see any problem even the same two names were identical. It is just the same way my name is Kadera, Ouma today the same way someone else can have the same names and there is no harm in that.

(Laughter)

Hon. Speaker: Proceed!

Hon. Kadera: In summary, I want to say that sub County of Ugenya has been ignored and we are soon becoming a minority sub County. I am going to bring a Motion very soon and I will urge the Members to support me so that we give this Motion some precedence.

(Interruption)

I don't want to pre-empt anything now, but I want to urge Members to support this Motion because Members telling me that they support it by word of mouth is not enough. I want to see that during voting. I am told Luthe here, but Luthe is the CECM health until the other day it was Dr. Owila, but I wish to urge Hon. Members to support me in this Motion so that Ugenya can get consideration in the Cabinet of Siaya County.

Otherwise, where sub Counties are being discussed, who will bring us feedbacks that today we had a Cabinet meeting and we discussed ABCD. We

don't have anybody in the Cabinet and that's why we are up in arms urging the Members that unless someone from Ugenya is also included in the Cabinet, we will never support and I think I am through with my submission.

(Laughter)

Hon. Speaker: Any time you have an opportunity to reply, persuade further, don't use the occasion to make some people want to withdraw.

Order! Hon. Members, you know our tradition of appreciation it's not hitting, it's stamping our feet. Next Order!

(Question put and agreed to.)

(Applause)

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members there being no other business in the House, the House stands adjourned.

The House rose at 4.28 p.m.

THURSDAY, 24TH MARCH, 2016

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

[Hon. Deputy Speaker (Hon. Adera) in the Chair]

PRAYER**QUORUM CALL AT THE
COMMENCEMENT OF THE SITTING**

Hon. Deputy Speaker: Can you ring the quorum bell!

(Quorum Bell was rung)

(Loud consultations)

(Quorum confirmed)

**COMMUNICATION FROM THE
CHAIR**

Hon. Deputy Speaker: Hon. Members, I just wish to remind ourselves that we need to take the Business of the House seriously. Today most of us were here by 9, 10, 11 a.m. but I don't know what happened. Because of time, we were almost running short of quorum and we have to wait for Members to come.

That is a trend that we need to avoid because there is Business that we really need to dispense with today affecting the Nominees and this being the 14th day, if at all we don't deal with the same, then the names will be deemed to have been passed and we shall be blamed by the people of Siaya of not doing our mandate. Kindly, as you do your other businesses, also mind about the Business that the Siaya people mandated us to do. Thank you, so much.

In addition to that, I also wish to urge our Clerks to be serious with their work. Sometimes when we are supposed to start our Business, you realize that some of you are not around. I waited for about 5 minutes and I didn't see anybody, I only saw the Sergeants at Arms, so kindly be serious with your work otherwise we will be coming to the Assembly and you follow us. Let's proceed!

PAPERS**REPORT OF THE COMMITTEE OF
GOVERNANCE AND ADMINISTRATION ON
THE VETTING OF THE SIAYA COUNTY
POLICING AUTHORITY NOMINEES**

Hon. Deputy Speaker: Chairman, Administration and Governance Committee!

Hon. Awour: Thank you, Mr. Deputy Speaker. On behalf of Governance and Administration Committee, allow me to lay on the Table of this House the report of the Committee of Governance and Administration on the vetting of the Siaya County Policing Authority Nominees. Thank you, Mr. Deputy Speaker.

(Paper laid on the Table of the House)

NOTICE OF MOTION**REPORT OF THE COMMITTEE OF
GOVERNANCE AND ADMINISTRATION ON
THE VETTING OF THE SIAYA COUNTY
POLICING AUTHORITY NOMINEES**

Hon. Deputy Speaker: Hon. Awour!

Hon. Awour: Mr. Deputy Speaker, once again allow me to put a Notice of Motion:-

THAT this House adopts the report of Committee on Governance and Administration on the vetting of the Siaya County Policing Authority Nominees just laid of the Table before this House this Tuesday 24th Thursday, 2016.

Hon. Deputy Speaker: Next order!

STATEMENTS

PROJECT MANAGEMENT COMMITTEE PAYMENT IN CENTRAL SAKWA WARD

Hon. Andiego: Thank you, Mr. Deputy Speaker. I rise on a Statement request on project management Committee payment in Central Sakwa Ward. Aware that the operational and financial management of development projects in this County are regulated by statutes and standard policies including, The Constitution of Kenya, 2010; Public Finance Management Act; and the County Government Act, 2012; Further aware that it is a standard practice in project implementation process that a percentage of total project cost is normally deducted for operations of project management Committee which is very critical in ensuring that projects are delivered in time.

Concerned that the following irregularities were observed in a particular project for Construction of twin staff houses at Serawongo Dispensary contracted to one Mawa Contractors LTD

in Central Sakwa Ward- Bondo Sub-County;

- I. Payment of 5% scheduled project management fee was declined by the CEC finance even though PMC was in place and had lived to its obligations;
- II. The payment certificate for work done totaling to Kshs. 1,171,170.80 was signed by a Project Manager of Alego-Usonga Sub County instead of Project Manager of Bondo sub-County where the project is residing.
- III. Payment guidelines due to PMC members contained in a policy framework from the department of governance and administration are both confusing and contradicts standard practices;

Deeply concerned that such irregularities could result in low morale for the PMC members hence compromise standards of the projects, besides being an indicator of emerging corrupt practices in management of County projects, I would like to know the following;

1. Why the PMC was denied what was due to them in this project and general administration of project management fee in the County
2. The circumstances under which a project manager of a another Sub County can be imported to sign documents under control of recommended manager
3. Exact guidelines showing payments made to each PMC member taking into consideration the total amount meant to be deducted from a project of this size.

Thank you, Mr. Deputy Speaker.

Hon. Deputy Speaker: Thank you, Hon. Andiego. I am trying to go through your Statement to see the best Committee that we can mandate to handle it; I think I will give direction in the course of time. Next order!

MOTION

REPORT OF GOVERNANCE AND ADMINISTRATION COMMITTEE ON VETTING OF THE SIAYA COUNTY POLICING AUTHORITY MEMBERS

Hon. Awuor: I am on my feet to present before this Hon. House a Committee report on Governance and Administration of vetting of the Siaya County Policing Authority members. From the onset I want to apologize that --- printing error. If you go to the back page, No. 4, Nominee number four is Jennifer A. Ogodo, women/youth representative who scored 84%, is a resident of Bondo Sub County, South Sakwa Ward.

Hon. Deputy Speaker: I can see that number four is John Owuor Owang.

Hon. Awuor: Jennifer, A. Ogodo.

Hon. Deputy Speaker: Okay!

Hon. Deputy Speaker: You have given me a wrong document. Okay, proceed!

Hon. Awuor: Thank you, Mr. Deputy Speaker. On behalf of the Members of the Committee on Governance and Administration, and pursuant to the provisions of Standing Order No. 192 (5) (f), it is my pleasure and duty to present to the House, the Committee's Report on the vetting of the nominees for Siaya County Policing Authority members. The Committee Membership is mentioned below.

1.2 Committee mandate

The Committee on Governance and Administration is one of the Sectorial Committees established under Standing Order No. 192 (5) (f) which provides that, the Committee on Public Administration and Governance shall vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (*Committee on Appointments*).

1.4 Nomination of the Members of the County Policing Authority

Pursuant to Section 41(1) (e) of The National Police Service Act, 2011, H.E. the Governor, through the Interim County Secretary forwarded to the Clerk of the County Assembly, the names of the nominee vide a letter dated 18th February 2016 for vetting by the Committee on Public Administration and Governance and consideration for approval by the County Assembly for appointment as Members of the Siaya County Policing Authority:-

1.5 Nominee, Sub County and Sector represented

NAME	SUB COUNTY	SECTOR
Julius Moses Omondi Odhiambo	Ugunja	PLWD
Emmanuel Amata	Rarieda	business
John Owuor Owang	Ugenya	business
Jenipher, A. Ogodo	Bondo	women/youth
Martine, A. Obiero	Gem	faith based
William Wayodi	Alego Usonga	business

The Honorable Speaker in a communication to the House, on Tuesday, 8th March 2016 informed the House that the Clerk of the Assembly had received the names of the said nominees and directed that the names and Curriculum Vitae of the said nominees be referred to the Committee on Governance and Administration for vetting and reporting to the House within 14 days.

1.6 Committee meetings

The Committee held two Sitting, one on 9th March 2016 where the Committee planned for the vetting exercise and the second meeting on 21st March 2016 where the Committee conducted the vetting exercise during which the said nominees appeared before it and were vetted in accordance with the Siaya County Public Appointment Act, 2014 and the National Police Service Act 2011 for appointment as Members of the Siaya County Policing Authority.

On behalf of the Committee on Governance and Administration, I have the honor and pleasure to present the Committee's Report on the nominees for appointment as Members of the Siaya County Policing Authority. May I take this opportunity to thank all Members of the Committee for their exceptional input and valuable contributions during the deliberations and vetting of the nominees. Thank you.

INTRODUCTION

The Committee on Governance and Administration is one of the Sectoral Committees established under Standing Order No. 192(5)(f) with the mandate to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185. Section 10 of

the Siaya County Public Appointment Act 2014, provides that, where the nomination of a candidate is rejected by Assembly, the appointing authority may submit to the House the name of another relevant candidate, and the procedure for approval specified in this Act shall apply accordingly.

2.2 APPOINTMENT PROCESS OF THE NOMINEES

- (iv) Pursuant to Section 41 (1) (2) (3) & (4) of the National Police Service Act, 2011 H.E. the Governor, through the Interim County Secretary forwarded to the office of the Clerk of the County Assembly, the names of the nominee vide a letter dated 18th February 2015 for vetting by the Committee on Governance and Administration and consideration for approval by the County Assembly for appointment as Members of the Siaya County Policing Authority.
- (v) Honorable Speaker in a communication to the House informed the House that the Clerk of the County Assembly had received the names of the said nominees and directed that the names and Curriculum Vitae of the said nominees be referred to the Committee on Public Administration and Governance for vetting and reporting to the House within 14 days.
- (vi) The public was expected to participate in the vetting process through submission of

memoranda (affidavit) on the suitability or otherwise of the nominees. The Assembly placed an advertisement in the print media on Friday 11th March 2016 inviting the public to submit memoranda by Friday 18th March 2016 at 2.00pm on the suitability or otherwise of the said nominees pursuant to Section 6(9) of the Siaya County Public Appointment Act, 2014. However, no memorandum was received from the public on the nomination of the nominees.

3.0 VETTING OF THE NOMINEES

In conducting the vetting process, the Committee on Governance and Administration examined the nominees against the following criteria, amongst others, in accordance with The Constitution of Kenya 2010, Siaya County Public Appointments and Approval Act, 2014, The National Police Service Act, 2011 and The County Government Act, 2012.

- (ix) Academic qualifications;
- (x) Employment record;
- (xi) Professional affiliations ;
- (xii) Potential conflict of interest;
- (xiii) Knowledge of the relevant subject;
- (xiv) Overall suitability for the position;
- (xv) Tax compliance
- (xvi) Integrity

During its Sitting held on Monday 21st March 2016, at Assembly Chambers in Bondo, the Committee orally interviewed the six nominees for

appointment as Members of the Siaya County Policing Authority.

3.1 MR. JULIUS MOSES OMONDI ODHIAMBO – NOMINEE REPRESENTING PERSONS LIVING WITH DISABILITY (PWD)

Mr. Julius Moses Omondi Odhiambo appeared before the Committee and stated that:-

9. He hails from Sidindi Ward of Ugunja Sub County, Siaya County.
10. He is 35years old
11. He is married with two children
12. His academic Qualifications are as follows;

- ✓ The nominee has a Certificate in Community Development from Baraka Agricultural College
- ✓ A certificate in Trauma Counseling from Amani Training and Counseling Center
- ✓ A certificate in ICT from the Upfront Management Institute
- ✓ Kenya Certificate of Secondary School from Joyland Special Secondary School - Kisumu

13. Employment records;
 - ✓ 2013 – 2015 The nominee was a casual waste management supervisor at Sidindi Ward.
 - ✓ In 2013 he was a clerk at polling Station working for the Independent Electoral and Boundaries Commission.
 - ✓ 2008 – 2012 he worked at Ugunja Community

Resource Center as a resource person.

- ✓ 2006 -2007 he worked for Toto 6/49 Kisumu Branch as a sales personnel for the Company
- ✓ 2005 – 2006 he was the front office secretary at the Brothers and Sisters Youth Community Center
- ✓ He has also worked with the Electoral Body as a polling clerk in the following years: 2005, 2010, and as earlier mentioned 2013

14. On the Functions of the County Policing Authority the nominee proved to the Committee that he was well conversant with the functions and given the opportunity to work as a member of the Authority he was going to do an impressive work.

15. He vowed to ensure that crimes meted on vulnerable groups of the society such Women, Children and PLWD will be investigated thoroughly to ensure justice for these groups who have always suffered in silence, he gave examples of child molestation, rape, women battering and discrimination as among the major crimes faced by these groups of persons.

16. On strategies to prevent crime; the nominee noted that the major problem in the County was lack of trust between the people and the police, and he was going to propose a mechanism to build the rapport between the people and the police this was by inviting the

police to barazas and public gathering to enable people get a forum to talk to the police and build a working relationship.

17. He also planned to device a networking plan between the authority and local leaders to build a feedback mechanism from the grass root in order to prevent occurrences of crime.

18. The nominee further told the Committee that he had never received a bribe or given one and has always been in the frontline on issues of public interest such as youth empowerment activities and initiatives, politics among others.

3.1.1 COMMITTEE'S OBSERVATIONS

11. The Committee observed that given the nominees' ability to comprehend the function of the authority and his ability to participate effectively in matters of local interest, he could do a good job given the opportunity.

12. The nominee submitted original copies of the following documents of which he had submitted copies before

- ✓ ID card
- ✓ Dully filled questionnaire for vetting/approval of nominees for appointment to public office by the County Assembly
- ✓ Curriculum Vitae
- ✓ Academic and Professional Certificates

- ✓ Compliance Certificate from Kenya Revenue Authority (KRA)
 - ✓ Clearance Certificate from Higher Education Loans Board (HELB)
 - ✓ Dully filled self – declaration forms on Leadership and Integrity for Ethics and Anti-Corruption Commission (EACC)
 - ✓ Clearance Certificate from Credit Reference Bureau (CRB)
 - ✓ Clearance Certificate from Criminal Investigation Department (CID)
4. His academic Qualifications are as follows;
- ✓ He holds a certificate in Governance from Bondo University College.
 - ✓ He holds Division III from D.H.T Secondary School
 - ✓ He got 26 points in C.P.E from Lwak Primary School
 - ✓ He has attended various workshops and seminars on;
 - Conflict Management, Resolutions and Team Building in Local Governance.
 - Sexual and Gender Based Violence
 - Municipal Land Issues
5. Employment Records;
- ✓ 2008 – 2013 Nominated Councilor at Town Council of Bondo
 - ✓ 1992 – 2005 Organizing Secretary Ford Kenya, for Bondo Constituency
 - ✓ 2003 Elected the Organizing Secretary for Orange Democratic Movement.

3.1.2 COMMITTEE RECOMMENDATION

Pursuant to Standing Order No. 192 (5) (f), the Committee recommends that:-

The nominee is suitable for appointment as Member of the Siaya County Policing Authority.

3.2 MR. EMMANUEL AMATA – NOMINEE REPRESENTING BUSINESS SECTOR

1. He hails from Rarieda Sub – County, Asembo West Ward.
2. He is 53 years old
3. He is married with two wives and has 13 children

6. He emphasized that the relationship between the public and the police in the County is strained, and this was a very important aspect in fighting and preventing crime and should be the priority for the authority.
7. On the functions of the Authority, the nominee showed ability to comprehend the functions given time and training.

8. He seemed to have a good understanding of the patterns of the crimes within the County and on the mechanism for preventing these crimes.
9. The nominee emphasized the need for all stake holders and leaders involvement in fighting crime within the County.
10. The nominee further assured to create plans and strategies meant to build trust between the public and the police so that the public could often report cases of crime rather than resorting to self-help by taking the law into their own hands, as cases of mob justice have always been witnessed within the County and have led to many loss of lives.

3.2.1 COMMITTEE'S OBSERVATIONS

1. The Committee observed that the nominee had basic knowledge of the County due to his nomination as a councilor and could understand concepts of crime and their patterns within the County, therefore given an opportunity he could work as a member of the County Policing Authority.
2. The nominee submitted original copies of the following documents of which he had submitted copies before
 - ✓ ID card
 - ✓ Dully filled questionnaire for vetting/ approval of nominees for appointment to public office by the County Assembly
 - ✓ Curriculum Vitae

- ✓ Academic and Professional Certificates
- ✓ Compliance Certificate from Kenya Revenue Authority (KRA)
- ✓ Clearance Certificate from Higher Education Loans Board (HELB)
- ✓ Dully filled self – declaration forms on Leadership and Integrity for Ethics and Anti-Corruption Commission (EACC)
- ✓ Clearance Certificate from the Credit Reference Bureau
- ✓ Clearance Certificate from Criminal Investigation Department (CID)

3.2.2 COMMITTEE RECOMMENDATION

Pursuant to Standing Order No. 192 (5) (f), the Committee recommends that:-
The nominee is suitable for appointment as Member of the Siaya County Policing Authority.

3.3 MR. JOHN OWUOR OWANG – NOMINEE REPRESENTING BUSINESS SECTOR

1. He hails from Ugenya North Ward, Ukwala Division Ugenya Sub - County

2. He is 35 years old
3. He is married with one wife and one child
4. His academic Qualifications are as follows:
 - ✓ Certificate in Business Management from the Cooperative University of Kenya
 - ✓ Kenya Certificate of Secondary Education from Yenga Secondary School
 - ✓ Kenya Certificate of Primary Education from Miyare Primary School
 - ✓
5. Employment record/ Engagements;
 - ✓ 2013 -2015 Chairman, Ukwala Traders Sacco Ltd
 - ✓ 2011 – 2015 Chairman Jiinue Self Help Group
 - ✓ (2005 – 2006) and (2012) – Field Officer Matibabu Foundation
 - ✓ He has worked as a Polling clerk for the Electoral Bodies in 2010 and 2007.
6. He stated that he is in the business of supply of eggs and he owns two motorcycles operating at Ukwala Town, he also owns a Hotel in Ukwala Town.
7. He emphasized that he will front for building a strong working relationship between the County Policing Authority and the Public so as to demystify the Authority to the public since this was a new concept in security.
8. He pledged to dedicate his time and might to the Authority to ensure that the Authority performed its best in preventing crime within the County.
9. On the patterns of Crime within the County the nominee showed tremendous knowledge of these crimes especially crimes targeted to women, children and the Business people in the County.
10. The nominee further emphasized on the importance of the Community Policing in providing a communication channel between the County Policing Authority and the members of the Public.
11. On bribery crimes the nominee clearly spelt out that it was a moral menace and in fighting it he will enforce the Ethics and Anti – Corruption guidelines that already exist to fight this menace.
12. The nominee advocated for an all stake holders approach / participatory approach to help prevent crime in the County and even to capture criminals within the County.
13. He clearly explained the role played by leaders in the war on crime and pledged to have an open door policy in the Authority that will enable information gathering to facilitate war on crime.

3.3.1 COMMITTEE'S OBSERVATIONS

1. The Committee observed that the nominee had good mastery of knowledge of crimes affecting the business people, their trends and patterns and ways and means of preventing them, with this knowledge the nominee could be very resourceful to the Authority.
2. The nominee submitted original copies of the following documents

of which he had submitted copies before

- ✓ ID card
- ✓ Dully filled questionnaire for vetting/ approval of nominees for appointment to public office by the County Assembly
- ✓ Curriculum Vitae
- ✓ Academic and Professional Certificates
- ✓ Compliance Certificate from Kenya Revenue Authority (KRA)
- ✓ Clearance Certificate from Higher Education Loans Board (HELB)
- ✓ Dully filled self – declaration forms on Leadership and Integrity for Ethics and Anti-Corruption Commission (EACC)
- ✓ Clearance Certificate from Credit Reference Bureau (CRB)
- ✓ Clearance Certificate from Criminal Investigation Department (CID)

Pursuant to Standing Order No. 192 (5) (f), the Committee recommends that:-

The nominee is suitable for appointment as Member of the Siaya County Policing Authority.

3.4 MR. MARTIN OBIERO ARARA – NOMINEE REPRESENTING FAITH BASED ORGANIZATIONS

1. He comes from Gem Sub County, Wagai Division, South Gem Ward
2. He is 55 years old
3. He is married to one wife and has 4 children
4. Currently he is a Bishop of the Christian Pentecostal Church
5. His academic background is as follows;
 - ✓ Certificate in Sales Skills from Jomo Kenyatta University of Agriculture and Technology
 - ✓ Head Postmaster Course from Kenya College of Communication Technology
 - ✓ Performance Management Course from Government Training Institute – Mombasa
 - ✓ IT enhancement Skills from Computer Pride Ltd
 - ✓ Cash Accounts Course from the Kenya College of Communication Technology
 - ✓ Kenya Advanced Certificate Education from Apostles Seminary – Nairobi
 - ✓ Kenya Certificate Secondary Education from

3.3.2 COMMITTEE RECOMMENDATION

- Mombasa High School –
Mombasa
- ✓ Kenya Certificate Primary
Education from Aluor
Primary School - Gem
- 6. Professional Background;
 - ✓ 1996 – 2002 Accountant –
Postal Corporation in
Garisa
 - ✓ 1996 – 2006 Postmaster in
Bungoma, Chwele and
Kimilili in Western
Province
 - ✓ 2003 – 2008 Regional
Cashier Postal Corporation
of Kenya (Western
Province)
 - ✓ 2008 – 2010 Head
postmaster Postal
Corporation of Kenya
- 7. He had an immense knowledge
on crimes, their trends, patterns
and distribution in the County.
- 8. He had played a pivotal role in
the Gem district Peace
Committee where they prepared
reports on crime after
consultation with members of the
public and discussed these
reports with the District Officer
and the District Commissioner.
- 9. On the function of the County
Policing Authority the nominees
displayed an impressive
knowledge of most of the
functions and his ability to
perform these functions could be
easily ascribed due to his role in the
Gem District Peace Committee.
- 10. As a church leader he vowed to
use the Siaya County Church
Leaders Forum as a
communication channel between
the Churches and the County

- Policing Authority and he
abhorred the discrimination that
exists among churches stating that
this could potentially lead to
tension and even conflicts
resulting to criminal activities.
- 11. On the crimes that take place
within the church the nominee
informed the Committee that
these had to be talked about and
after investigations the criminals
had to be punished for justice to
prevail.
- 12. He stated that he is an advocate
for peaceful resolutions of
Conflicts but when these fail he
is open to other means of conflict
resolution; including cohesive
means.

3.4.1 COMMITTEE OBSERVATIONS

1. The Committee observed that
the nominee having worked in
mainstream civil service and
having played community roles
as a member of the Clergy and
a member in the Gem District
Peace Committee he was best
placed to serve in the County
Policing Authority.
2. Given this chance the
Committee believes he was
going to be a dependable
member of the Authority.
3. The nominee submitted original
copies of the following
documents of which he had
submitted copies before:
 - ✓ ID card
 - ✓ Fully filled
questionnaire for
vetting/ approval of
nominees for

- appointment to public office by the County Assembly
- ✓ Curriculum Vitae
 - ✓ Academic and Professional Certificates
 - ✓ Compliance Certificate from Kenya Revenue Authority (KRA)
 - ✓ Clearance Certificate from Higher Education Loans Board (HELB)
 - ✓ Dully filled self – declaration forms on Leadership and Integrity for Ethics and Anti-Corruption Commission (EACC)
 - ✓ Clearance Certificate from Credit Reference Bureau (CRB)
 - ✓ Clearance Certificate from Criminal Investigation Department (CID)

3.4.2 COMMITTEE

RECCOMENDATION

Pursuant to Standing Order No. 192 (5) (f), the Committee recommends that:-
The nominee is suitable for appointment as Member of the Siaya County Policing Authority.

MS. JENIPHER OGODO – NOMINEE REPRESENTING WOMEN/YOUTH

1. She hails from Bondo Sub – County, South Sakwa Ward
2. She is a single mother of one child
3. She is 44 years old
4. Education Background:
 - ✓ Master in Environmental Planning Management – University of Nairobi (Ongoing)
 - ✓ Bachelor of Science honors (zoology) – University of Nairobi
 - ✓ Certificate in Computer Studies – Hope Girl Child Training Center
 - ✓ Certificate in Bio - diversity Survey for Plants, Small Mammals and Birds – Makerere University
 - ✓ Certificate in Customer Care - Hope Girl Child Training Center
5. Employment Record
 - ✓ Cyber attendant
 - ✓ 2010 – 2011 Teacher at the Hope Girl Child Training Center
6. She stated to the Committee that she will ensure proper coordination between members of the public and leaders to help give information on crime related issues within the County.
7. Communication to her was the best way to prevent crime and ensure security in the County.
8. Inclusivity of all leaders in fighting crime was a major aspect of her strategy to prevent crime within the County and thus she will strive to ensure that all

leaders including chiefs and village elders were included in the fight against crime.

9. She stated to the Committee that she will develop a crime data collection tool then use the data collected in the field for analysis and prepare a report for prevention of crime and ensure security in the County.

3.5.1 COMMITTEE OBSERVATIONS

1. The Committee observed that her ability to develop data collection tool and her analysis ability would come in handy at the County Policing Authority.
2. The nominee however submitted original copies of the following documents of which she had submitted copies before:
 - ✓ ID card
 - ✓ Dully filled questionnaire for vetting/ approval of nominees for appointment to public office by the County Assembly
 - ✓ Curriculum Vitae
 - ✓ Academic and Professional Certificates
 - ✓ Compliance Certificate from Kenya Revenue Authority (KRA)
 - ✓ Dully filled self – declaration forms on Leadership and Integrity for Ethics and Anti-Corruption

Commission (EACC)

- ✓ Clearance Certificate from Credit Reference Bureau (CRB)
- ✓ Clearance Certificate from Criminal Investigation Department (CID)
- ✓ Clearance Certificate from Higher Education Loans Board (HELB)

3.5.2 COMMITTEE RECOMMENDATION

Pursuant to Standing Order No. 192 (5) (f), the Committee recommends that:-

The nominee is suitable for appointment as Member of the Siaya County Policing Authority.

3.6 MR. WILLIAM WAYODI – NOMINEE BUSINESS SECTOR

1. He hails from Alego Usonga Sub – County, South East Alego Ward
2. He is 45 years old
3. He has one wife and six children
4. Education Background:
 - ✓ Diploma in Education Management from Kenya Education Management Institution
 - ✓ Diploma in Education from Kenya Institute of Education
 - ✓ P1 Certificate from Eregi Teachers Training College
5. Employment Record:

- ✓ 2012 – 2016 Head Teacher
Agoro Oyombe Primary School
 - ✓ 2004 – 2012 Head Teacher
Aluny Primary School
 - ✓ 2002 – 2004 Teacher
Kirindo Primary School
 - ✓ 2000 - 2001 Teacher
Mbaga Girls Boarding Primary School
 - ✓ 1998 – 2000 Teacher
Ulawi Primary School
 - ✓ 1992 – 1998 Teacher
Mahola Primary School
6. On how he will serve in the Authority and do his official work at the same time the nominee informed the Committee that he had previously served in other part time positions at the Kenya National Union of Teachers and this had not negatively affected his performance as a teacher.
 7. On the patters of crime and crimes done by the youth he attributed this to lack of economic empowerment of the youth which was leading the youth to crime.
 8. He stated that the authority should promote initiatives that will empower the youth so as to deter them from crimes.
 9. On the crimes against children such as rape and molestation he insisted that these crimes were capital offences and anybody who perpetrated them should face the law.
 10. On domestic crimes the nominee stated that counseling, and arbitration was to be used to prevent and help the family units remain strong.

3.6.1 COMMITTEE OBSERVATION

1. The Committee however observed that the nominee was well conversant with strategies for preventing crime and was very keen in the factors that lead to crime thus was better placed to provide good strategies given the opportunity.
2. The nominee submitted original copies of the following documents of which he had submitted copies before

- ✓ ID card
- ✓ Dully filled questionnaire for vetting/ approval of nominees for appointment to public office by the County Assembly
- ✓ Curriculum Vitae
- ✓ Academic and Professional Certificates
- ✓ Compliance Certificate from Kenya Revenue Authority (KRA)
- ✓ Clearance Certificate from Higher Education Loans Board (HELB)
- ✓ Dully filled self – declaration forms on Leadership and Integrity for Ethics and Anti-Corruption Commission (EACC)
- ✓ Clearance Certificate from

Criminal
Investigation
Department (CID)

3.6.2 COMMITTEE

RECCOMENDATION

Pursuant to Standing Order No. 192 (5) (f), the Committee recommends that:-

The nominee is suitable for appointed as Member of the Siaya County Policing Authority.

4.0 GENERAL OBSERAVATIONS

The Committee further observed that the one third gender rule as stipulated in the Constitution of Kenya 2010 Article 175 (c) and the National Police Service Act section 41 (4) the same act creating the County Policing Authority was not observed.

Upon inquiry from the County Public Service Board, the Committee was informed that only two women from the same Sub County had applied for the same position of women representative in the Authority. (See attachment, a letter from the Board)

The Committee noted women should be encouraged in the future to apply for these position and the Committee further cautions the County Public Service Board never to forward to the Assembly nominee whose compositions contravenes the spirit of the legal provisions of this County.

5.0 COMMITTEE

RECOMMENDATIONS TO THE HOUSE

Pursuant to Standing Order No. 192 (5) (f), the Committee recommends that:-

The nominees be appointed as Members of the County Policing Authority.

This House approves the nominees for appointment by H.E. the Governor as Members of the Siaya County Policing Authority.

Mr. Julius Moses Omondi Odhiambo

Mr. Emmanuel Amata
Ms. Jenipher Ogoto
Mr. John Owuor Owang
Mr. Martine Obiero Arara
Mr. William Wayodi

As Members of the Siaya County Policing Authority. Attached is a copy of a letter from the Public Service Board, signed by the CEO Mr. Lubala which we did ask and we attached it. Mr. Deputy Speaker, I want to urge this House that this County is the only County which has not constituted the County Policing Authority and today is our day, our last day as an Assembly to present this report. I want to tell the House that when the Speaker was giving the Committee this Mandate to be committed to our Committee, the Speaker said that the County Assembly has already nominated two Members from this House, --- Executive and I want to believe that if this is done a final document containing all the nominees, all the members of the Authority, we shall have it complete.

I want to beg my friends, the Hon. Members to support this so that we move forward. I thank you, and I call Hon. Osuri to second.

Hon. Deputy Speaker: Hon. Osuri!

Hon. Osuri: Thank you, Mr. Deputy Speaker; I am on my feet to second.

Hon. Deputy Speaker: Hon. Members, the mover of the Motion has moved the same and it has been seconded and now allow me to propose the question that this House adopt the report of the Committee on Governance Administration on the vetting of the Siaya County Policing Authority Nominees laid on the Table of the House today Thursday 24th March, 2016. It is open for debate.

Hon. Aneme: ---and the people who are also working without the guns. Our people are people that whenever they see the police even if they have very valid information they cannot give, but this is the structure that they can give information without fear or favor.

It is only when this Committee is put in place then the crimes will come down because every crime in the community tends not to be reported in the police because of fear. Sometimes because of fear or bribe and sometimes because of fear of the guns, so I will recommend that it is high time we become tough and we act tough by rejecting such kind of things that come to us at the eleventh hour with no threshold of the law being put in place.

I would like to recommend that this report be returned back for the corrections and inclusion of the gender and all the corrections that we have observed here. Thank you, Mr. Speaker, Sir.

Hon. Murray: Point of order, Mr. Speaker.

Hon. Speaker: What is your point of order, Hon. Murray?

Hon. Murray: Mr. Speaker, I just wanted to know whether it is in order when the mover has already cited some of the anomalism in the report and he has requested the House to withdraw the report, is it actually in order to refuse him at this stage or ---

Hon. Deputy Speaker: Hon. Murray, you are out of order because it appears that when we were dealing with the same issue perhaps you were away or you were not available. Hon. Rose Okite!

Hon. Okite: Bwana Spika, ningeanza kwa kusema ya kwamba 'kizuri cha jiuza na kibaya cha jitembeza, na mwenye macho ambiwi tazama na

mwenye sikio hambiwi sikia'. Tunajua ya kwamba Bwana Spika, hata kama ni nini, hata kama ni lini, hata kama ni wakati gani, tunajua ya kwamba sheria lazima ifuatwe kwa sababu tuliambiwa ya kwamba ni Siaya tu haijaandikisha hawa watu, na tutazidi kusema ya kwamba hata kama ni Siaya tu haijaandikisha hawa watu, sharia lazima ifuatwe.

(Applause)

Hata kama itakuwa ni wakati gani, hatukuja hapa kucheza kama watoto! Vile kila mtu ataenda, hata ikiwa Gavana ataenda nasi pia tutaenda na yeye na kila mtu ataenda kuitisha kura. Kama mtu alishafanya kosa, huwezi kurudia kosa, vile mmoja wetu alisema ya kwamba ati kuna kamati, kuna nini, kuna nini. Tunataka tuongee kama watu wazima, na tukizidi kusema yale yaliyo pita hatutatimiza kitu kwa hii Kaunti kwa sababu tutakuwa tukiendelea mbele na tunarudi nyuma. Kwa hivyo tunataka kusema ya kwamba, kuna watoto ambao hawasikii neno, na kuna wale ambao wakifunzwa watasikia na kuna wale pia ni waoga. Wale waoga wakiambiwa kitu wanajua --- Bwana Spika, ningependa kusema ya kwamba, kwa hii Assembly kuna watu kuwa tukiongea na kila mjadala ikikuja wanapiga simu, wanatuma ujumbe, hiyo tanataka kuyakana. Tunasema ya kwamba, itafika wakati, hata sisi wamama, tutaacha hizi vikomba vyetu inje tuingie bila kwa sababu tuko hapa kwa ajili ya watu wetu.

(Applause)

Bwana Spika, ningesema ya kwamba hatuwezi tukawa watu ambao wangali waoga kwa inchi yao. Na ukiwa

muonga, uongozi haulindwi na uoga, kwa sababu ukiwa muoga hautakuwa kiongozi. Kiongozi lazima akae kidete kwa chochote ambayo inaweza kutokea. Ninasema ya kwamba, ninaipinga vikali kwa sababu tukizidi kurudia yale ambayo yamesemwa na hayafwatilii maanani inamaanisha ya kwamba sisi sio watu. Kwa hivyo nina ipinga vikali hii ripoti.

Hon. Owii: Point of order.

Hon. Deputy Speaker: Hon. Owii, what is your point of order?

Hon. Owii: Mr. Speaker, Sir, we should actually give room to whoever is making such kind of utterances to establish the truth. We may be having those with phones, wherever they are calling, we don't know. We want these characters to be named so that we see how we behave with them. Just to talk about people not even to attend to their phone calls, I think this is abit unfair, because coz I have seen a number of us actually going out to attend to their phone calls and it is like we are establishing they are calling some characters. Is it in order not even to go out and attend to your phone call?

Hon. Deputy Speaker: Hon. Owii, you are in order actually. Hon. Okite, you know when you allege,

(Interruptions)

Hon. Members, you cannot compel the Speaker to speak in a language that you direct.

(Laughter)

The Speaker is the only person who may change the language at will especially when I am responding to a Member who was speaking in fluent Swahili. I may decide to respond in Swahili or English, so

long as we communicate. For a Member, if you decide to use Swahili, use Swahili throughout and if you decide to use English, you have to use English throughout. If you decide to use sign language which we don't encourage here because all of us have no knowledge in sign language. I therefore choose to respond in English because I believe the Member is also fluent in English but she chose to contribute in Swahili which is within our Standing Orders.

If at all you alleged that Members send text, that should be followed with a proof, if you can't proof, then you better refrain from making such allegations. Proceed!

Hon. Okite: Asante sana Bwana Spika. Unajua ya kwamba kuna kiswahili sanifu na Kiswahili seri. Nikipatiwa nafasi, nitasema yale ambayo nina yajua, kwa sababu siwezi kuongea kwa uwoga, nikipatiwa nafasi wakati ikifika, nitasema Bwana Spika. Sina uwonga.

Hon. Deputy Speaker: Hiyo najua unaweza sema kwa Kiswahili sanifu lakini kwa leo kama huwezi dhibitisha kwamba ama kufafanua ya kwamba fulani anatuma ujumbe kwa fulani basi tafadhali usiingilie hayo tena.

(Applause)

Hon. Okite: Nimekubali Bwana Spika, lakini ikifika wakati nikipatiwa nafasi, nitasema, kwa sababu tuko hapa kwa ajili ya watu wetu, hatuko hapa kwa ajili ya sisi wenyewe. Na tukisema ya kwamba tunaakilisha wakina mama, yale ambayo tunafanya hapa ndio itajulisha watu ya kwamba tuna wakilisha wamama. Kwa hivyo nina ipinga na nina ipinga hii repoti. Asante.

Hon. Deputy Speaker: Hon. Owii!

Hon. Owii: Thank you, very much Mr. Speaker. Mr. Speaker, it appears that we are seriously generous with time; we know exactly the way the debate has gone. We have taken a lot of time here and some of us, possibly all of us are busy outside here, we have other duties that we should do more particularly on representation. The Chair of this particular Committee has seen where it faulted; it was just the issue of gender. In as much as there is a lady there, he had agreed that they can withdraw the report and withdrawing the report would have saved a lot of time for us because like you, we know you are a very busy man, we are taking a lot of your time talking over things that we will talk about when they are brought back. Why don't we agree ---

Hon. Deputy Speaker: Hon. Owii, you are out of order! The Speaker is not a busy man, the main Business that put me here---

(Applause)

Can you go right to the topic and give your contributions; we don't want you to beat about the bush, because the bush will swallow you.

Hon. Owii: Thank you, very much Mr. Speaker. I have seen that some mistakes were made, more particularly mistakes that touches on law, the issue of observing the laws in regard to the Constitution and the County Government Act. These are things that are obvious, things like observing the rule of law on the Committee action which has to be observed. I can see that these people had every opportunity to play around with the

representation and all would have been quite okay by now.

We have too many people representing the interest of the Business community or business sector, how about if we only change the people who are falling in the business community and then we see the representation of women in those particular areas? If you allow me, I would propose an amendment that out of the six nominees and more particularly the nominees who are representing the interest of the business community, we propose that one of them would be changed to represent the interest of the women.

If we do that one then we will be home and dry. I can see that we are repeating ourselves here! And we have an option that we can take at least one or two from the business sector and we bring on board a woman to represent the interest of the women and we are done! If you allow that amendment, I want to call upon Hon. Murray Asewe to second.

Hon. Deputy Speaker: Hon. Asewe!

Hon. Asewe: I second Mr. Speaker.

Hon. Deputy Speaker: Hon. Members, an amendment has been proposed that under the business class or the business cluster be amended to remove the nominee under that category. I wish to respond with the following; Section 41(e) of the Police Oversight Authority Act stipulates that the appointing authority shall be the Governor.

(Applause)

And it has provided for six positions that the Governor shall nominate. Under sub section 2, they shall be forwarded to the Assembly for approval. I have seen a

situation where the Deputy Majority Leader wants to usurp that power which we actually do not have.

(Applause)

---therefore leave the appointing authority the responsibility of the appointments, its only to the Governor, our business is to ---. Thank you. Hon. Odinga! I am giving you your time to make your contribution.

Hon. Odinga: Thank you, Mr. Speaker, Sir. I think I will only take one or two minutes because most of the issues have been raised. I must say that from the onset when the Chair was reading his report, you know when he came to the mandate I became confused, if you look at page 3 of the report under mandate, I don't know why ---Member of that Committee -- -but if you look at their mandate, item number 1.2, they are saying that the Committee on Governance and Administration is one of the Sectorial Committees established under Standing Order No. 192 (5) (f) which provides that, the Committee on Roads, Public Works, Transport and Communication shall vet and report

(Laughter)

Mr. Speaker, Sir,

Hon. Deputy Speaker: Hon. Chair of Governance and Administration!

Hon. Awuor: Mr. Speaker, I am just on a point of information. When I was reading the report because the Hansard can answer Hon. Odinga, I said that is a typo error, I read very clearly as Committee on Governance. So, maybe he was out there doing something else

(Laughter)

Hon. Deputy Speaker: Is he the one Hon. ---was referring to?

(Laughter)

Precede, Hon. Odinga!

Hon. Odinga: Mr. Speaker, Sir, let me state this categorically that a typo error cannot be a whole statement. He is talking of Standing Order number 192 (5) (f), and he is saying that provides that the Committee Roads, a whole statement Mr. Speaker, that cannot be a type error. You look at the kind of amendments we were making even yesterday, that you substitute the word 'as' with 'when', if we can do that as an amendment, then why not a whole statement. If we say that it is a typo error then for me that is not a typo error.

If you look at this report, first of all I want to congratulate the lady because if you look at all the nominees, in terms of qualifications, it's this lady that is the best in terms of professional qualifications because she is doing her Masters and we believe that the one who also applied could be having even more qualifications and best on the rule of a 1/3rd rule, then this ought to have been taken care of.

Mr. Speaker, Sir, we have seen some Members especially my friend Hon. ---was trying to bring this report through back door---he was proposing an amendment---this House ---and he knows very well that the moment we say 'NAY' obviously we are taking back this report to the appointing authority. So, I don't want to take much of your time and I want to thank my colleagues for ---the only problem that I have is the issue of timeline. We should look at it so fast so that we can give our people services that they need.

I also want confirm that what Hon. Shaban was saying that Owang comes from Ukwala but if you look at their report they are saying that Owang hails from North Ugenya. So, that one needed to be corrected because I know he is able and he can perform this duty. What I thought is that when they were engaging the Public Service Board, they would have even requested for a correction or a letter - --I would be very happy if they are coming from Ukwala. Thank you, Mr. Speaker, Sir

Hon. Deputy Speaker: Hon. Osuri, is it so burning? Then I will give you one minute.

Hon. Osuri: Thank you, Mr. Speaker. Having listened contributions from the Members, I want to propose an amendment in the Committee's recommendations that this House refers back the names of the nominees to the appointing authority for they have breached certain gaps particularly on the Constitution, the gender and the youth so that it is considered and for future that if they are sending any list for vetting in any Committee, we need a whole list of the applicants and therefore for that matter with that amendment, I would wish to propose that Hon. Muhulah seconds this report.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, order. It is his right to make contributions and also to propose for any amendment. It is within his rights and mandate as provided in the Constitution.

Hon. Deputy Speaker: Hon. Muhulah!

Hon. Muhulah: Yes Mr. Speaker, with all due respect I second.

Hon. Deputy Speaker: Hon. Odinga, take your seat, if you want to contribute, perhaps after putting the question. The Hon. Osuri has made a proposal for amendment and the same has been seconded by Hon. Muhulah, however the Speaker has not been able to capture clearly which part you were amending because if you were amending especially the proposal of that amendment. I am now talking as a lawyer and also as the Speaker. You need to state that we delete this part that they proposed that we pass. We delete this part and insert the following words, without that the Speaker does not know which part you are trying to amend and therefore your proposal for amendment fails.

(Laughter)

RULING ON THE SIAYA COUNTY POLICING OVERSIGHT AUTHORITY DEBATE

Hon. Deputy Speaker: Hon. Members, of this August House, allow me to make the following pronouncement after listening to your good and important contributions. This House is faced with a critical decision following the nomination of members to the County Policing Oversight Authority in accordance with Article 41(1)(e) of The National Police Service Act, 2011.

This Assembly undertook the vetting process as provided for under Article 41(3) of The National Police Service Act, 2011 which states *inter alia* that the names of the nominees shall be forwarded to the Assembly for approval.

Various contributors have raised objections to the approval of the list on the ground that it does not meet the constitutional threshold as required under Article 175(c) of The Constitution of

Kenya, 2010 which states *inter alia* that County governments established under this Constitution shall reflect the following principles while making nominations:-

(c) No more than two-thirds of the members of representative bodies in each county government shall be of the same gender.

This is the bone of contention and Members have raised it with a lot of vigour.

I am therefore faced with a difficult but necessary decision to make. The issues at stake are:-

1. Do the appointments meet the threshold in Article 175(c) of the Constitution of Kenya promulgated on 27th August, 2010?
2. Whether the list shall be deemed to have been approved if the Assembly fails to approve the list in accordance with Article 9 of the Appointments Act. There is a failed school of thought that if at all we don't approve the names, then the statutory deadline shall have elapsed. I want to inform Members that what we are doing is already an action and therefore the Assembly cannot be blamed for non-action.

(Applause)

If we borrow from our resolution on 23rd February, 2016 when the Appointments Committee tabled its report on the vetting of the CEC Health and County Secretary nominees where we were faced with almost a similar scenario. Distinguished Hon. Members, this is not a unique or strange situation we are in. In the matter of the appointments of CEC Health and the County Secretary this

Assembly was faced with a similar situation and the Assembly was clear that the breach of the constitution and other relevant statutes were quite glaring and therefore decided to return the same list to the appointing authority until the relevant laws are complied with.

The Assembly therefore cannot be blamed for inaction. Indeed we have acted as per Section 7 of the Appointments Act.

On the question on whether the law was followed, I wish to state the following;

As per Article 175(c) of the Constitution of Kenya, 2010, it is crystal clear that the appointments did not reflect the spirit and letter of the Constitution as it did not take into account the one third gender rule.

I therefore direct that the list be referred back to the appointing authority in order to consider gender balance as per the Constitution.

(Applause)

Due to its urgency and rampant insecurity being faced in the County, this Assembly urges the Executive to expedite this process and bring back another list as soon as it is practicable for this Assembly to act on. I rule.

(Applause)

Next Order!

MOTION

ADJOURNMENT

Hon. Deputy Speaker: Hon.

Members, there being no other business,
this House adjourns until, Tuesday, 29th
March, 2016 at 2.30 p.m. Happy Easter,
Hon. Members!

The House rose at 5.02 p.m.

TUESDAY, 29TH MARCH, 2016

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

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

PRAYER

(The Speaker and the Clerk-at-the-Table consulted)

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members, I wish to inform you that we had a successful visit yesterday to the family of the late Hon. Benson Omondi. His children are very healthy and the family is very happy. I thank sincerely the Members who got time to join us and those who for one reason or another had wanted to come but couldn't manage due to commitment.

We appreciate that you were with us in prayer, those who never made it or those who remember that if it were us who were away, how happy we would be in our graves if Members visited our families. That should be the motivation and we committed to be doing that every year, not just for him but for any other Member of this House who departs in the course of our term as a way of reuniting the family and giving hope and indeed demonstrating with the word that we are friends in life and in death, Thank you.

PAPERS

Hon. Minami: Point of order!

Hon. Speaker: Yes.

Hon. Minami: Some of us don't have the Order papers.

(The Speaker and the Clerk-at-the-Table consulted)

Hon. Speaker: The Clerks, be advised that it is out of Order to have Members start transacting business without Order papers circulated to them either electronically or in hard copies. You are reporting to me that you had prepared original Order papers; the practice is to distribute the old Order papers and also distribute the supplementary Order papers. It's not an excuse to say that you changed the Order papers.

Hon. Speaker: Clerks, does everyone have Order papers? I am told that in National Assembly, mistakes like that by staff can cost them their jobs; I don't know whether that is the practice we should have at the County level. I am being told that there is no electricity and nobody knows how to operate the generator, we do not have therefore Order papers. So it is in the hands of this House if for lack of sufficient number of Order papers can make us adjourn I will permit it but if you want to proceed then we will proceed.

How many Order papers do we have so that we can share? Hon. Members kindly accept to share, I'm told there are about 30 copies so that dispense on business, what is on the Order paper is just after notices of Motion, there is one which is a Report from the Committee of Health then there is the Siaya County Food Carriage Bill, the Siaya County Public Nuisance Bill and the Siaya County Alcoholic Drink Control Bill. Those are the Bills that are going through second

reading today. It is not an Order paper that is so crowded.

Hon. Munda: Mr. Speaker, Sir, I wish to lay on the Table of the House the Report by the Committee on Trade, Industry, labor and Cooperative on the Siaya County Alcoholic Drinks Control Bill, 2015.

Hon. Speaker: Mr. Chairman be advised accordingly that this idea of presenting Reports the same day and people debating is really bringing confusion and in that case if Members refuse to debate the Report don't take offence. You need to present these Reports in good time so that they have ample time to go through them. Actually you should not put yourself in a situation where you are reading it word by word and they are also reading the same Report because there is no difference. There is another Paper to be laid

Hon. Were: Allow me to table a Report on the Committee of Health Services on the fate of two accountants at Bondo Sub County Hospital.

NOTICE OF MOTION

AMENDMENTS OF THE SIAYA COUNTY ALCOHOLIC DRINKS CONTROL BILL 2015

Hon. Munda: I wish to give Notice of the following Motion:-

THAT, this House adopts the Report of the Committee on Trade, Industry, Labour and Cooperatives, on the amendments of the Siaya County Alcoholic Drinks Control Bill 2015

Hon. Speaker: Hon. Chairman, I don't think we want to adopt the Report on amendments. Amendments we will do at the Committee of the Whole House. We

are doing Second Reading of the Bill where we expect you to give us your general view the Bill, how you went through the Bill and then your Report of the amendments you are going to propose if need be, then the Committee will remove that. We will be dealing more with the Second Reading of the Bill, yes we will go through the Report but not to adopt and amend.

Hon. Owii: Thank you very much Mr. Speaker, Sir, we had not finished with the Papers and we have gone to the Notices of Motion.

Hon. Speaker: You have two papers, which ones? According to my Order Paper, there is only one Paper from the Chairperson of the Committee of Health laid on the Table of the House: A Report on the fate of two accountants at the Bondo Sub County Hospital. That is the only one, which other one do we have?

A time like this we could have very many Order Papers, there is a State of confusion, before the presiding officer, there is only one Paper which has been laid and there is one for the Report which we are going to discuss alongside the Second Reading of the Bill.

Hon. Were: Allow me to give the following Notice of Motion:-

THAT, this House adopts the Report on the Committee on Health services on the fate of two accountants at Bondo Sub County Hospital laid on the Table of the House today 29th March 2016.

Hon. Speaker: Mr. Chairman, you are aware we are supposed to be getting 2 Bills from your Committee this afternoon and you had proposed that that Report be the one to be laid at this particular time for Debate instead of these two Bills that the House Business Committee slotted that this Report be debated tomorrow afternoon

so that today you just lay it and it is distributed to Hon. Members they go through it tomorrow afternoon we debate. So your Notice is of Moving a Motion tomorrow in the afternoon. Is that clear?

Hon. Were: Yes.

Hon. Speaker: I am saying you are giving Notice to Move a Motion which business allocated time today, so you will move it tomorrow so for now take advantage and make sure that Members have the Report tomorrow afternoon they will debate it. You will not be in the quagmire that we are trying to run away from where people present Reports on the same day and want them debated at the same time especially when you can avoid it so your Report will be debated tomorrow in the afternoon. Thank you.

STATEMENTS

Hon. Speaker: Yes, Hon. Owii.

Hon. Owii: Thank you, Mr. Speaker, Sir, I want to put tentative business beginning on Tuesday 29th March to Thursday 31st March 2016 noting the House Business Committee has approved the following tentative business to appear in the Order Paper of Tuesday March 29th to Thursday 31st March, 2016.

On Tuesday 29nd March 2016 in the Afternoon Sitting which is now, there will be 2nd Reading a Report of the Siaya County Carriage of Food Bill 2015 from the Chairperson Committee on Health.

Report on the Siaya County Public Nuisance Bill 2015 from the Chairperson Committee on Health.

Siaya County Alcoholic Drink Control Bill 2015 will be the last Business this afternoon.

On Wednesday 30th March 2016 Morning Sitting, the Committee of the whole House will have Health leading, then there is also the Siaya County Disaster Management Bill 2015 from the Chairperson Public Administration and Governance.

The Siaya County Public Works Bill 2015 from the Chairperson Public Works, Roads, Transport and Communication.

Wednesday 30th March 2016 Afternoon Sitting there will be the Report of the Committee on Health services on the fate of the 2 accountants in Bondo Sub - County Hospital from the Chairperson Committee of Health services. We will then have the Siaya County Alcoholic Drinks Control Bill 2015. That one will be solved as the last business tomorrow afternoon Mr. Speaker, Sir.

On Thursday 31st, March, 2016, in the Afternoon Sitting there will be a Report from the Committee on Delegated Legislation, Justice and Legal Affairs on their benchmarking visit to Senate in November 2015.

There will also be a Report from the 2 Committees on Health on the fate of 2 accountants in Bondo Sub - County Hospital. There will also be a Report from the Committee on Selection on the names of Members of Privileges Committee.

Last but not least there will be a Report from the Committee on Water, Environment and Natural Resources on incomplete work by China Jianxi International Kenya Limited and Jiangxi Water and Hydropower Construction Kenya Limited working on Siaya Bondo water supply and sanitation projects.

The last one we will be Report on the Committee of Water, Environment and Natural Resources on questionable

charcoal levies at Akala Market by Kenya Forest Services Officers. Those are the tentative business from Tuesday to Thursday 2016. Thank you, Mr. Speaker, Sir.

BILL

THE SIAYA COUNTY CARRIAGE OF FOOD BILL, 2015 (Bill No. 5 of 2015)

Second Reading

Hon. Speaker: Chairman, you had something to say about these bills!

(Laughter)

Hon. Were: Thank you, Mr. Speaker, Sir. The Siaya County Carriage Food Bill 2015 is still being subjected to wider consultative process and when it will be ready, the House Business Committee will be informed. This is for us to have a better Bill that will be acceptable and be implemented without hiccups, thank you.

Hon. Speaker: Are you talking about the two Bills or just one?

Hon. Were: I am talking about the two, also the Public Nuisance Bill 2015.

Hon. Speaker: Chairman, I am only glad to say that Hon. Deputy Whip had foreseen that you will not be able to finish these things within the stipulated time and ruled in your favor.

Hon. Were: We had a central Committee meeting in the morning and it was the view of the general Membership that the two Bills should incorporate the input of other stake holders who were left out. We already have an arrangement to outreach them for the public interest. Thank you.

Hon. Speaker: Thank you Members. I just want to advise that the Standing Orders allow us 20 days within which we are supposed to meet all the relevant people. This report came sometime last year when we had recess for about 4 months. These Bills were on our Order paper of last week and we sought time for extension. We may understand but now go to the public who gave their views last year; they also want to know what the fates of these Bills were. They want to know whether their views were captured or not.

So, just to encourage us, I noticed that for the good and the quality of the Bill we want, we should make sure that we try as much as possible within the stipulated time to reach as many stake holders as we can so that we don't abuse the Proceedings of the House, so that we don't infringe on the rights of Members to debate at a time they are supposed to be debating. Kindly fast track it and I am hoping that when we resume from recess, we will be in a position to present those Reports. So that takes us to Order number 10, next Order!

Bill

The Siaya County Alcoholic drinks
Control Bill 2015, Bill No. 13 of 2015.

(Second reading)

Hon. Speaker: Yes, Chairman.

Hon. Munda: Thank you Mr. Speaker, Sir...

Hon. Speaker: But is it the Committee of Public Administration or Governance? Or is that a typing error on the Order Paper? Precede, Hon. Member.

Hon. Munda: Thank you, Mr. Speaker, Sir, I think that is a typing error because this is the Committee of Trade,

Industry, Labour and Cooperatives which acted on The Siaya County Alcoholic drinks Control Bill 2015. On the preface is my honour and pleasure to present to this House the Report on Committee of Trade, Industry, Labour and Cooperatives which acted on The Siaya County Alcoholic drinks Control Bill 2015.

The Committee Membership is there as stated as well as the Committee mandate. I would like us to go to page 2. It is my honor and pleasure to present to this Honorable House, the report of the Committee on Trade, Industry, Labour and Cooperatives on the Siaya County Alcoholic Drinks Control Bill, 2015.

Mr. Speaker Sir, Article 185(1) of the Constitution of Kenya, 2010 stipulates that the legislative authority of a County is vested in, and exercised by the County Assembly. Article 185 (2) further provides that a County Assembly may make any laws that are necessary for or incidental to the effective performance of the functions and exercise of the powers of the County Government under the Fourth Schedule. The Fourth Schedule of The Constitution of Kenya 2010 distributes functions between the National and County Governments.

Part 2 of the schedule allocates the functions and powers of a County Government amongst which include (1) Public entertainment and public amenities including liquor licensing, and (2) Trade development and regulations including

trade licenses and fair trading practices. Article 187 (2a) of the Constitution stipulates that *“If a function or power is transferred from a government at one level to a government at the other level, the constitutional responsibility for the performance of the function or exercise shall remain with the government to which it is assigned by the Fourth Schedule.”*

The County Government of Siaya, therefore, in furtherance to the aforementioned statutes, has developed the Siaya County Alcoholic Drinks Control Bill, 2015 to primarily provide for the licensing and regulation of the production, sale, distribution, consumption and outdoor advertising of alcoholic drinks.

Mr Speaker Sir, The Siaya County Alcoholic Drinks Control Bill, 2015 has core objectives as listed below;

- i. Protecting individuals’ health in relation to excessive consumption of alcohol
- ii. Protecting children from negative impact on health and social development from exposure to adverts
- iii. Protect consumers from misleading inducements
- iv. Protecting health of children by preventing access

- v. Ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks
- vi. Eliminate illicit trade.

The Siaya County Alcoholic Drinks Control Bill, 2015 went through its first reading on Wednesday, 10th February 2016 and was committed to the Committee on Trade, Industry, Labour and Cooperatives. The committee organized a pre-public participation bill exposure meeting with technical stakeholders on 4th March 2016 at the Siaya Agricultural Training Center, during which insightful deliberations occurred between the committee membership and NACADA regional manager, the Director of Trade who doubles up as the Siaya County acting Chief Officer and a representative from the Deputy County Commissioner's office.

Mr Speaker, Sir, County Assembly Standing Order 121(1) clearly spells out that A Bill having been read a First Time shall stand committed to the relevant Sectoral Committee without question put. Standing Order 121 (3) read together with Article 118 (1) (b) of the Constitution of Kenya, 2010 further elucidates that the Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the committee makes its report to the County Assembly. In this regard, the Committee took the Bill to the

Public in all the six sub-counties; These were (1) Bondo (Bondo Sub county town hall) (2) Rarieda (Ruma Women Group Hall) (3) Ugenya (Sega Polytechnic) (4) Ugunja (Sidindi Secondary School) (5) Gem (Wagai Resource Center and (6) Alego Usonga (Siaya ATC). The public participation exercise took place between 9th and 11th March 2016.

Mr Speaker, Sir, the committee noted that there were considerable interests in section (5) of Part II of the Bill on 'Administration' with regard to how funds from the established Siaya County Alcoholic Drinks Control Fund should be allocated. The public indicated that a reasonable per centum of the monies should be allocated to the directorate. NACADA, according to the public, were to get a reduced proportion. The motivating factor in this bearing was the immense responsibility bestowed on the Directorate in implementing provisions of this proposed Act.

It was also imperative, according to the public that the composition of the established Sub-county committee in Section 9 be enhanced to include law enforcement officers from the national government. This informs the proposed amendments in the mentioned section that will be laid before this house in a short while.

Mr. Speaker, Sir, allow me to again draw your attention to Section 35 (3) dealing with "sale of alcohol in sachets" of the Bill where there were emotional deliberations and suggestions from the public. The Bill, in this section, proposes a fine and an imprisonment terms for subsequent contravention as stated. A

section of the members of the public felt that the fine and the sentence are too lenient hence proposed harsher terms. However, guidance at this point is given pursuant to Article 191(2) of the Constitution of Kenya, 2010 regarding the pecking order of legislations at the national and county government levels.

The National Government Alcoholic Drinks Control Act No. 4 of 2010 Section 31(3) proposes a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or both, for a similar offence. Since this is a matter that could end up in judicial processes, it is down to wisdom that we retain the proposals in the bill as they are. Our judicial system is not devolved and as such, we cannot propose sentences and fines that contradict the provisions in the national laws.

Mr. Speaker, Sir, a contention was raised, and might still come up on the floor of this house, as concerns the minimum capacity of packaging of alcoholic drinks as implied in Section 35(2a) of this Bill. The confusion was on whether the minimum capacity should be 250ml, or 205ml or 200ml.

“This Committee hereby gives a considered opinion based on previous judicial orders that was given by Justice Isaac Lenaola on 27th February, 2013 in a case pitting ten petitioners against NACADA and other four respondents, in petition No. 320 of 2011 in the High Court of Kenya at Nairobi. The Judge declared that, “section 31(2)(a) of the Alcoholic Drinks Control Act, 2010 (No. 4 of 2010) is inapplicable and non-existent in as far as it was impliedly repealed by the provisions of section 91A (1) of the Customs and Excise Act pursuant to the Finance Act amendment of 2010”

Mr. Speaker, Sir, Section 91A (1) of the Customs and Excise Act referred to in the above judgment reads, “No person shall pack or sell an alcoholic beverage in a container, the capacity of which is two hundred milliliters or less”.

This Committee therefore amended the said section of the Bill to by deleting “250ml” and inserting “200 milliliters” in conformity with the judicial orders.

Mr. Speaker, Sir, this bill in its present form does not contain express regulations on the alcoholic drink popularly known as *chang’aa*. I hope you all know *chang’aa*, it is brewed in Ugenya.

(Laughter)

This notwithstanding, *chang’aa* remains the most common uncontrolled distilled alcoholic drink in this county, whose effects have been devastating on our social structures and norms. While *chang’aa* was previously considered an illicit brew, the repealing of *Chang’aa* Prohibition Act Cap 70 of 1980, and Liquor Licensing Act Cap 121 as contained in Section 69 of Alcoholic Drinks Control Act No. 4 of 2010 legalized it. It would therefore defeat the objectives of this Bill if we do not put forth clear legislations that cover this type of drink. This Committee therefore has come up with inclusions and amendments to the Bill to fulfill the core objects of this legislation on the issues related to processing and sale of *chang’aa*.

Mr. Speaker, Sir, I will not present the specific amendments arising from our interaction with the public and other experts right now; I will do so in the Committee of the whole House.

I will now move to the Memorandum of Objects and Reasons. Mr. Speaker, Sir, the Bill is amended under

Memorandum of Objects and Reasons by deleting ‘Sylvester Madialo’ and inserting ‘James Munda’. The part is further amended by deleting, ‘Delegated Legislation, Justice and Legal Affairs’ and inserting; ‘Trade, Industry, Labour and Cooperatives’.

Mr. Speaker, Sir, I now call upon Hon. Members of this House to adopt this Report.

I now call upon Hon. Ndonji to second.

Hon. Ndonji: Seconded.

(Question proposed)

Hon. Speaker: If there are no contributors, then I will put the question. Are there contributors?

Hon. Members: Yes!

(Several Hon. Members stood up in their places)

Hon. Speaker: Yes, Hon. Zilpa.

Hon. Awino: Thank you, Mr. Speaker, Sir. I rise to say something about this Bill. I am being asked whether I want to speak about *chang’aa* though I don’t take it and I don’t know how it tastes. My issue is about these sachets of 200ml. My worry and concern is that young people in this county are really abusing these drinks in sachets. These drinks are even making them look like zombies. In our engagement with members of the public, this was a big problem to mothers.

In Ukwala, for example, the public was so much against these drinks in sachets. In fact, one elderly woman told us that their daughters in law don’t respect them because both the daughters and their sons drink. When asked why they are drinking, the young women tell their mothers in law that their sons are ‘*long’ lilo*’.

(Loud consultations)

If you don’t know the meaning of that statement then you can ask me later because I don’t want to get into it now.

(Loud consultations)

But it simply means that these young people are already behaving like those ones in Central Kenya where we have read that women sleep on the beds while the men sleep on the floor because they have been spoilt by alcohol. So long as we encourage these small sachets that young people put in their pockets, we shall not have grandchildren. Our sons will not be able to sire kids.

I hope that this Assembly can find a way of increasing the sizes of those sachets so that when they carry them they can be noticed. It is a great concern and we cannot hide from it. I was also asked to say something about *chang’aa*.

(Hon. Okuku stood up in his place)

Hon. Speaker: Hon. Elisha Okuku, what is it?

Hon. Okuku: Mr. Speaker, Sir, I have---

Hon. Speaker: Hon. Zilpa, kindly switch off your microphone.

(Hon. Awino switched off her microphone)

Hon. Okuku: Mr. Speaker, Sir, I have observed the Member on the Floor and it is like she is coming up with amendments on the Bill but I think she should do that in the Committee of the whole House. I rise on a point of order to

know whether this is the right time for amendments to be proposed.

Hon. Speaker: Hon. Zilpa, I didn't hear you propose an amendment; is that what you are doing?

Hon. Awino: No!

Hon. Owii: No; she is just contributing.

Hon. Speaker: Then you are in order, Proceed!

Hon. Awino: Thank you.
(Laughter)

Mr. Speaker, Sir, *chang'aa* was also a major issue during public participation. The issue of so much interference with the contents of the *chang'aa* drink was of great concern to the public. So, I just hope that when this Bill will be eventually passed, it should be enforced so that it protects our people. We should not look at changaa that it will bring revenue but we have also to look at the health of our people. I support the work of this Committee and I commend them for the work that they have done. Thank you.

Hon. Speaker: Member for Central Alego!

Hon. Oriaro: Thank you, Mr. Speaker. I have one concern, it is true that with that Bill and law in place we will generate revenue, we will generate employment. My concern is on the aspect of enforcement and ultimately areas bordering on enforcement and judicial corridors. It is this area where a lot of money shall generate revenue but unfortunately this Bill will only aid the generation of revenue for the National Government. I don't know if this Bill was to be in place by the fact of having a County Court of Law dealing with matters the way it is elsewhere in major towns

such as Nakuru, Nairobi, Mombasa, then we will be generating too much revenue which will be too good for the progress of our own County.

Lastly, the idea of economy is only economy when it reaches down to the common man. I would be of the idea in future even if it is not presently, the world has gone sachet, they call it sachet and the best English word is sachet. The world has gone sachets, everything sachets, roiko sachets, milk sachets.

So it would be better that the alcoholic one is also in place. We have sachets which are 50ml. You know most of us politicians are proactive when we are elated bit, I can recall during Moi's time, he used to make comments in parliament that MPs are jovial, it was because of the sachets, they used to have it and sip abit and then when they speak as I speak, the Country ---

Hon. Andiego: Point of order, Mr. Speaker!

(Laughter)

Hon. Speaker: Hon. Andiego!

Hon. Andiego: Mr. Speaker, is the Hon. Member in order to say that the MPs and Hon. Members normally sip something before they talk?

(Laughter)

Hon. Oriaro: I never talked of MPs, MPs are only Members of the National Assembly and Senators, I was not talking in their best interest. Otherwise this is a good beginning but the aspect of enforcement, having a County Law goes also hand in hand in having the definition of a an urban Centre so that Siaya can govern itself in the order of city states.

The Greek used to have the way it is Nairobi, Mombasa and Nakuru. I support.

Hon. Speaker: Yes, Hon. Walter Okello!

Hon. Okello: Thank you, Mr. Speaker. One, I wish to congratulate the Committee for improving the Bill but I have a few observations. When we talk about alcoholism, the most affected lot is the youth just as the previous speakers have observed. The Hon. Oriaro has raised a very pertinent issue concerning the generation of revenue. I have a particular concern with the time of sale of alcohol; we know there are certain laws that exist, like the Mututho Law that regulated the timing so that bars operate at a certain time, particularly in the afternoon.

The trend in the County generally right now is that people sell alcohol at any time. When you go to certain places which I don't want to mention, as early as 8.00am in the morning, people are already enclosed in serious busaa feasting. I don't know if busaa qualifies as an alcoholic drink but the net effect of that drink is that the young people end up getting heavy and tired as early as 10.00am in the morning and they idle in the markets because of having heavy stomachs for having consumed busaa.

Finally, we always say in this House that laws are very good, we have many laws on paper but to the enforcement and observers of those laws, it will take a lot of public information, public awareness for the existence of these Bills. We pass this Bill here today but until we educate the public that the public to be aware of consequences of breaching the Acts and breaching of these laws then it will just be as good as any other piece of paper out there. Otherwise I congratulate the House through the Committee for coming up with

this timely Bill. Actually I think we are already late, this should have come in place several years back but it is said; better late than never. Thank you.

Hon. Speaker: Yes, Hon. Andiego!

Hon. Andiego: Thank you, Mr. Speaker. Allow me also to congratulate the Committee for the good work they have done. As it has been said by my brother Hon. Okello, the Bill ought to have come long time ago. We all understand that the issue of revenue collection is becoming an issue in our County and therefore lack of these Bills amounts our County to be one of the Counties which its revenue collection is quite low. There is an issue that always disturbs us when we are outside there, we have the Bills and we also look into how revenue collection, the money that comes in the County and at times we forget to know how our youths are being affected.

I would request that we have the Bill but we should check on the issues of the places where the bars and the sellers of alcohol are situated. Recently we had an issue that nowadays if you go around you find bars and alcohol sellers do open them even around schools and where churches are and our target is just money, we don't mind whether the youths and more particularly the students who come from those places the danger they are exposed to. Therefore, it will come to the enforcement department; they really look at places before the license is given to the sellers.

Mr. Speaker, people enjoy alcohol with music. Where I come from Central Sakwa, there is a church called Nyangoma, Nyang'oma is a small lake where bars, schools and hostels are just one thing, so this causes danger to youths. I am

requesting that however much we need revenue, the youths should also be taken care of. Otherwise I support and we expect good return from the Bill, thank you Mr. Speaker.

Hon. Speaker: Hon. Deputy Speaker!

Hon. Adera: Thank you, Mr. Speaker, for indulging me. I also wish to add my voice on the report that we are discussing. I wish to congratulate the Committee on Trade for a wonderful job. This is a Bill that we have always waited for since we joined this Assembly in 2013, however it has come and I believe it will bring some sanity in our County. I am aware that alcohol is one of the most booming business that we have in the County and if at all the County Government decided to tap revenue from it we will be far today but the County Government seems to be only looking at the money that comes from the National Government and therefore it does not bother with whatever comes from the County. I believe with the Bill, the County Government will be able to collect a lot of money from the people doing trade in alcohol.

Most of the Members who have spoken talk about the Bill as if the Bill is only handling changaa or busaa, but the Bill actually talks of all sorts of alcohol, be it whisky, changaa, busaa or beer. I believe anybody doing the same business will be able to pay revenue to the County Government and will be able to collect a lot of money that is now going to the National Government at the moment. I just want to urge the Executive to be serious on the enforcement because we have passed here several Bills, we have passed here several Motions but when it comes to action, they are very slow. I

want to believe that with this one, they will be able to act very fast and see to it that it is enacted fully. Otherwise, I wish once more to congratulate the Committee but the battle now passes to the Executive to ensure that they reap to the maximum.

Thank you, Mr. Speaker.

Hon. Speaker: Yes, Hon. Ndonji!

Hon. Ndonji: Thank you, Mr. Speaker, Sir. I am a Member of the Trade Committee and I have listened to the contributions and I also want to contribute. Just as the Bill says, this means that it is meant to control the alcoholic drinks that we have been having in the County. I also want to say that I am happy as the chairman put it that chang'aa is brewed in Ugenya mostly and I am happy that they consume it without fear of anything. If it is going to be regulated, it means that whatever we are going to be having in terms of the local brew will be safe and marketable. There is a possibility of exporting the brews after branding them.

I want to put it to the House that the Bill does not mean that the brews will be done in any way and be taken in any way, there will be control of how the brew should be done, not only the traditional brews but all other brews we have within the County. I also want to say that there is no cause of alarm when it comes to the types of lethal we will be drinking because it has been clearly put in the Bill itself, it is also going to control the way the youths will be taking their brews. I don't have much to say because I can see most Members concur with what the Committee has done and they will support the Bill, thank you.

Hon. Speaker: Hon. Ngure!

Hon. Ngure: Thank you, Mr. Speaker. First I thank this Committee for working on this Bill and as it is said here,

it should have come long time. But I wish we could get our revenue from elsewhere and not from alcohol. Maybe because even when we talk about the control, it has never worked. It is not the first time this is coming up, even without a Bill there has an attempt to control alcohol consumption and therefore the type of alcohol being brewed and therefore revenue from this alcohol but it has never worked. The law enforcement on whatever regulations they put on alcoholic drinks just don't work. The chiefs are very busy when they have been alerted and when this dies out then of course the consumption goes on and the chiefs gain more because I suppose they go around and get their little bits from the chang'aa brewers and the process continues. So, if we are going to regulate the alcoholic drinks, regulate the consumption and therefore get proper revenue from this alcoholic drinks, I just don't know how this time with this Bill it will work well.

I appreciate the Bill, I support the Bill but the implementation of these rules or regulations should be looked into more strongly because it just does not work. If we are to continue like this, of course Hon. Zilpa started by crying how our children are getting lured, it is not only the men even the girls. Girls are now consuming alcohol just as much as the boys are, some of them perhaps even more. We have to make sure that whatever regulations we put in place according to this Bill are as it was before that they work otherwise we will sit here to debate but nothing will come out of this Bill.

I agree with Hon. Andiego that there should be rules put where bars should be and this has been said before. Bars should not be near schools, churches and these things we talk about them, now

we are debating them and yet they continue! I support this Bill but more because I will love to see a situation where the regulations have been put in place and actually implemented. Otherwise it is a mere Bill passed. I thank the Committee and I thank you.

Hon. Speaker: Hon. Were!

Hon. Were: Mr. Speaker, Sir, for this Assembly to adopt this Bill we are merely doing our responsibility as Members of the County Assembly. I want to say this as we open our gates for changaa brewing as source of income; the Bill is silent on quality control. Alteration of the content is a common thing in the villages, I was asking myself whether the County Government will be able to establish agencies that will be able to establish standards and look at the quality of the content. At the moment we don't have the data of those who are arbitrated to alcoholic drinks, we don't have the data of those who are addicted, we don't have the data of those who have died from excess consumption of alcohol.

It is important that we should establish a database that would be open to research and other dynamics. Poverty and alcohol brewing are very good and it is a responsibility of the County Government that we should be able to institute measures that could alleviate poverty because it is not really that our people would wish to go to changaa as a business but it is because of poverty.

It is important that we address poverty, let us establish an agency that will be able to regulate the quality. Establish laboratories and the other thing that would be important because chang'aa business is impacting negatively on the health of our County men and women. The Bill is silent about those who are doing production

locally, somebody maybe a carrier of ---, a carrier of cholera, somebody maybe a carrier of other diseases. It is important that the health of whoever is doing brewing is catered for such that you would not be a source of infection to the consumers, which should also be addressed. Thank you, Mr. Speaker, Sir, I support.

The House rose at 3.50 p.m.

Hon. Speaker: Hon. Members, then I will put the question which is that; The Siaya County Alcoholic Drink Control Bill, 2015 is now read a second time.

(Question put and agreed to)

(Bill read a second time)

Hon. Speaker: Hon. Members, having done the second reading of that Bill, if you followed what the Majority Leader read a few hours ago is that tomorrow we will be having the Siaya County Disaster Management Bill and the Siaya County Public Works Bill going through the Committee of the Whole House. I am hoping that the Committees have prepared enough and then in the afternoon we will be having the report from Committee on Health, fortunately we have been given copies, let us not leave copies behind. Next order!

MOTION

ADJOURNMENT

Hon. Speaker: There being no other Business, Hon. Members may we be upstanding for adjournment.

WEDNESDAY, 30TH MARCH, 2016

The House met at the County Assembly Chamber at 9.00 a.m.

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

PRAYER

COMMITTEE OF THE WHOLE HOUSE
(Hon. Deputy Speaker (Hon. Adera) in the Chair)

BILLS

1. THE SIAYA COUNTY
DISASTER MANAGEMENT
BILL, 2015

Hon. Adera: Hon. Members, we are in the Committee of the Whole House to consider some Bills;

1. The Siaya County Disaster Management Bill 2015,
2. The Siaya County Public Works Bill, 2015 and
3. Siaya County Alcoholic Drinks Control Bill, 2015.

We can start with the Siaya County Disaster Management Bill, 2015.

CLAUSE 2

Hon. Adera: I propose the question that Clause 2 be part of the Bill. I put the question that Clause 2 be part of the Bill.

(Question put and agreed to)

CLAUSE 3

Hon. Adera: I propose the question that Clause 3 be part of the Bill. Chair!

Hon. Osuri: Thank you, Chair. Section 3 (b) – Insert a comma between ‘property’ and ‘health’

Hon. Adera: I propose the question that Clause 3 be amended as proposed by the Chair. I put the question that Clause 3 be amended as proposed by the Chair.

(Question put and agreed to)

Hon. Adera: I now propose the question that Clause 3 be part of the Bill as amended. I put the question that Clause 3 be part of the Bill as amended.

(Question put and agreed to)

CLAUSE 4

Hon. Adera: I propose the question that Clause 4 be part of the Bill. Chair!

Hon. Osuri: Include – ‘Develop and maintain a directory of agencies, Departments, private sector entities, non-Governmental and faith-based organizations that are involved in disaster management in Kenya and establish effective communication links with the identified entities.’

Hon. Adera: I propose the question that Clause 4 be amended as proposed by the Chair. I put the question that Clause 4 be amended as proposed by the Chair.

(Question put and agreed to)

Hon. Adera: I now propose the question that Clause 4 be part of the Bill as amended. I put the question that Clause 4 be part of the Bill as amended.

(Question put and agreed to)

CLAUSE 5

Hon. Osuri: Clause 5, Part II, Section 7. County Disaster Management Plan;

The following information should be added as content of disaster management plan:

1. Procedures for informing the public, County Government Departments, and other stakeholders, of hazard alert, declaration of disaster situation, or existence of a disaster.
2. Procedures for accepting and facilitating volunteers services and relief supplies during and after the state of disaster situation.

Hon. Adera: I now propose the question that Clause 5 be amended as proposed by the Chair. I put the question that Clause 5 be amended as proposed by the Chair.

(Question put and agreed to)

Hon. Adera: I now propose the question that Clause 5 be part of the Bill as amended. I put the question that Clause 5 be part of the Bill as amended.

(Question put and agreed to)

CLAUSE 6

Hon. Adera: I propose the question that Clause 6 be part of the Bill. I now put the question that Clause 6 be part of the Bill.

(Question put and agreed to)

CLAUSE 7

Hon. Adera: I propose the question that Clause 7 be part of the Bill. I now put the question that Clause 7 be part of the Bill.

(Question put and agreed to)

CLAUSES 8 AND 9

Hon. Adera: I propose the question that Clause 8 and 9 be part of the Bill. I now put the question that Clause 8 and 9 be part of the Bill.

(Question put and agreed to)

CLAUSE 10

Hon. Adera: I propose the question that Clause 10 be part of the Bill.

Hon. Osuri: Clause 10 (1) (a) a disaster exists then the Governor declares, by notice in the County Gazette, that disaster exists after receiving advice from the Committee that a disaster has occurred; *Clause 10 (1) (a) be replaced by:*

a disaster exists then the Governor declares, by notice in the County Gazette or in the Kenya Gazette, that disaster exists after receiving advice from the Committee that a disaster has occurred;

Clause 10 (1) (b) (i)

the Governor declares by notice in the County Gazette, after receiving advice from the Committee under subsection (2) that there is a substantial prospect that a disaster shall occur; or

Clause 10 (1) (b) (i) be replaced by:

the Governor declares by notice in the County Gazette or in the Kenya Gazette, after receiving advice from the Committee

under subsection (2) that there is a substantial prospect that a disaster shall occur; or

Clause 10 (3)

(3) The Committee may certify an agency registered and operating within the County, which it considers to have a high level of technical expertise in the prediction or assessment of risk of any kind of disaster, as an accredited disaster notification service for the purposes of this Act.

Clause 10 (3) be replaced by:

(3) The Committee may certify an agency registered and operating within the County, and in case of none existence of such, an agency registered in the Republic of Kenya with assets in and operating within the County having been competitively identified, which it considers to have a high level of technical expertise in the prediction or assessment of risk of any kind of disaster, as an accredited disaster notification service for the purposes of this Act.

Hon. Adera: I now propose the question that Clause 10 be part of the Bill as amended. I put the question that Clause 10 be part of the Bill as amended.

(Question put and agreed to)

CLAUSE 11 – 14

Hon. Adera: I propose the question that Clauses 11 – 14 be part of the Bill. I put the question that Clauses 11 – 14 be part of the Bill.

(Question put and agreed to)

CLAUSE 15

Hon. Adera: I propose the question that Clause 15 be part of the Bill.

Hon. Osuri: Clause 15 (1) The Committee shall open a bank account which shall be administered on behalf of the Committee by the Secretary.

Clause 15 (1) be replaced by:

The Committee shall open a bank account which shall be administered on behalf of the Committee by the Secretary in accordance with the Public Finance Management Act, 2012.

Hon. Adera: I now propose the question that Clause 15 be amended as proposed by the Chair. I put the question that Clause 15 be amended as proposed by the Chair.

(Question put and agreed to)

Hon. Adera: I now propose the question that Clause 15 as amended be part of the Bill. I put the question that Clause 15 as amended be part of the Bill.

(Question put and agreed to)

CLAUSE 16

Hon. Adera: I now propose the question that Clause 16 be part of the Bill.

Hon. Osuri: Section 16 – Insert the word ‘plan’ after the word ‘management’

Hon. Adera: I now propose the question that Clause 16 be amended as proposed by the Chair. I put the question that Clause 16 be amended as proposed by the Chair.

(Question put and agreed to)

Hon. Adera: I now propose the question that Clause 16 as amended be part of the Bill. I put the question that Clause 16 as amended be part of the Bill.

(Question put and agreed to)

CLAUSE 17 – 29

Hon. Adera: I propose the question that Clause 17 – 29 be part of the Bill. I put the question that Clause 17 – 29 be part of the Bill.

(Question put and agreed to)

CLAUSE 1

Hon. Adera: I propose the question that Clause 1 be part of the Bill. I put the question that Clause 1 be part of the Bill.

(Question put and agreed to)

TITLE

Hon. Adera: I propose the question that the Title be part of the Bill. I put the question that the Title be part of the Bill.

(Question put and agreed to)

Hon. Adera: Hon. Members, we have dealt with the first Bill which is, the Siaya County Disaster Management Bill, 2015 and we shall do a report to the full House when the Hon. Speaker resumes his Chair. Now we go to the second Bill which is;

2. THE SIAYA COUNTY ALCOHOLIC DRINKS BILL, 2015

CLAUSE 2

Hon. Adera: I propose the question that Clause 2 be part of the Bill.

Hon. Munda: In Clause 2, insert after the definition of “cinema”, “Chief Officer” meaning a County chief officer in charge of trade, appointed under section 45 of the County Government Act 2012”.

Hon. Chair, Section 2 of the Bill is amended in the interpretation of the word ‘Executive Member’ by deleting “alcohol control” and inserting “Trade”.

Hon. Adera: I put the question that Clause 2 be amended as proposed by the Chairman.

(Question put and agreed to)

CLAUSE 3 TO 5

Hon. Adera: I Propose the question that Clause 3 to 5 be part of the Bill. I put the question that Clause 3 to 5 be part of the Bill.

(Question put and agreed to)

CLAUSE 6

Hon. Adera: I propose the question that Clause 6 be part of the Bill.

Hon. Munda: Chair, Section 6 under; Establishment of the Fund, Section 6 of the Bill is amended in Sub-section (5) by deleting the word “fund” in the first sentence and inserting the word “licence and other fees payable under this Act”. Further sub-section (5a) is amended by deleting “70%” and inserting “50%”. Sub-section (5b) is amended by deleting “20%” and inserting “15%”. Sub-section (5c) is amended by deleting “10%” and inserting “35%”.

Hon. Adera: I now put the question that Clause 6 be part of the Bill.

(Question put and agreed to)

CLAUSE 7

Hon. Adera: I propose the question that Clause 7 be part of the Bill.

Hon. Munda: Mr. Chairman, Section 7, Administration of the Fund. Section 7, sub-section(1), of the Bill is enhanced by inserting ‘in consultation with the Directorate’ after the word, “Director”, to read; The Fund shall be administered by the Director in consultation with the Directorate. Section 7, sub-section(2), is further enhanced by inserting the word ‘Directorate and’ between the word “the” and “Executive Member” in the first line, to read; The Director shall with the approval of the Directorate and Executive Member.

Hon. Adera: I put the question that Clause 7 as amended be part of the Bill.

(Question put and agreed to)

CLAUSE 8

Hon. Adera: I propose the question that Clause 8 be part of the Bill. I put the question that Clause 8 be part of the Bill.

(Question put and agreed to)

CLAUSE 9

Hon. Adera: I propose the Question that Clause 9 be part of the Bill.

Hon. Munda: There is an amendment in Clause 9 under Establishment of the Sub County Committee. Section 9 Sub-section 4(f), fourth line is enhanced by inserting the word ‘the other’ between the word “and” and “a person”. Section 9 of the Bill is further enhanced in sub-section 4 by adding two parts (g) and (h) to include; (g) the officer commanding Kenya Police in the Sub-County

(h) the officer commanding administration police in the Sub-County.

Hon. Adera: I put the question that Clause 9 be amended as proposed by the Chair.

(Question put and agreed to)

Hon. Adera: I propose the question that Clause 9 as amended be part of the Bill. I put the question that Clause 9 as amended be part of the Bill.

(Question put and agreed to)

CLAUSE 10

Hon. Adera: I propose the question that Clause 10 be part of the Bill.

Hon. Munda: On Section 10, Review Committee. Section 10 of the Bill is amended in sub-section 2(a) by capitalizing letter C in the word ‘chief’, that is Chief Officer’. Section 10 of the Bill is amended in sub-section 2(g) by deleting the word “three” and inserting “six” and further amended by deleting “of whom shall be a youth” in the last line and inserting ‘from each sub-County’. Section 10 is also amended by adding two parts (h) and (i) in sub-section 2 to include;

(h) the officer commanding Kenya Police Services in the County

(g) the officer commanding administration police in the County

Hon. Adera: Hon. Members, I now put the question that Clause 10 be amended as proposed by the Chairperson.

(Question put and agreed to)

Hon. Adera: I now propose the question that Clause 10 as amended be part of the Bill. I put the question that Clause 10 as amended be part of the Bill.

(Question put and agreed to)

(Hon. Adera leaves the Chair. Hon. Adida in the Chair)

CLAUSE 11

Hon. Adida: I propose that Clause 11 be part of the Bill.

Hon. Munda: Clause 11, Application for licence. Section 11 subsection 1 of the Bill is amended by deleting the word ‘import’...importation of alcoholic drink constitutes an aspect of International Trade which falls within the jurisdiction of the National Government. Section 11 of the Bill sub-section 4 is enhanced by adding the word “the County public health officer” after the word “police” in the first line. In section 11 subsection 15 delete ‘provided that no decision shall be quashed on appeal solely by reason of any omission or error in such record, unless it appears that a substantial miscarriage of justice has thereby been occasioned’. (this provision is superfluous because the determination of what constitutes sufficient reasons to quash a decision rests with the preceding judicial officer.)

Hon. Adida: May I put a question that Section 11 be amended as proposed by the Chair! May I put a question that Section 11 be part of the Bill as per the amendments.

(Question put and agreed to)

CLAUSES 12 and 13

Hon. Adida: I propose that Clauses 12 and 13 be part of the Bill. I put the question that Clauses 12 and 13 be part of the Bill.

(Question put and agreed to)

CLAUSE 14

Hon. Munda: Chair, that is on licence for premises. Section 14 of the Bill sub-section 1(c) is enhanced by inserting the word “meant” in between the word “learning” and “for” in the fourth line.

Hon. Adida: I propose that Clause 14 be amended as proposed by the Chair. May I propose a question that Clause 14 as amended be part to the Bill.

(Question put and agreed to)

CLAUSES 15 – 20

Hon. Adida: I propose that Clauses 15 to 20 be part of the Bill. May I propose a question that Clauses 15 to 20 be part to the Bill.

(Question put and agreed to)

CLAUSE 21

Hon. Munda: Types of licences. Section 21 of the Bill Sub section 3 is amended by inserting the word “not” between the words “shall” and “apply” in the last sentence, to read...A licence granted to one corporate body shall not apply to more than one premise.

Hon. Adida: I propose that Clause 21 be amended as proposed by the Chair. May I put a question that Clause 21 as amended be part of the Bill.

(Question put and agreed to)

CLAUSE 22

Hon. Adida: May I propose that Clause 22 be part of the Bill. May I put a question that Clause 22 be part of the Bill.

(Question put and agreed to)

CLAUSE 23

Hon. Munda: Section 23; Removal of Licence. Section 23 of the Bill is amended by deleting the word ‘removal’ and inserting ‘renewal’ in the short title.

Hon. Adida: I propose that Clause 23 be amended as proposed by the Chair. May I put a question that Clause 23 as amended be part to the Bill.

(Question put and agreed to)

CLAUSES 24 – 30

Hon. Adida: I propose that Clauses 24 – 30 be part of the Bill. May I put a question that Clauses 24 – 30 be part of the Bill.

(Question put and agreed to)

CLAUSES 32 – 34

Hon. Adida: I propose that Clauses 32 – 34 be part of the Bill. May I put a question that Clauses 32 – 34 be part of the Bill.

(Question put and agreed to)

CLAUSE 35

Hon. Adida: I propose the Clause 35 be part of the Bill. Chair!

Hon. Munda: Section 35: Selling in sachets. Section 35 of the Bill sub-section 2(a) is amended by deleting digit ‘250’ and inserting digit ‘200’ Section 35 Subsection (2)b) is amended by inserting the words “The alcoholic drink known as *Chang’aa*, or”.... at the beginning of the sentence to read, “the alcoholic drink known as *Chang’aa*, or any other distilled or fortified alcoholic drink shall...

Section 35 of the Bill is further amended in sub- section 2(b) by deleting “and PET bottles” and adding the word “and” between the words “glass” and “Tetra park”

Hon. Adida: I propose that Clause 35 be amended as proposed by the Chair. I put a question that Clause 35 be part of the Bill as amended by the Chair.

(Question put and agreed to)

CLAUSES 36 – 38

Hon. Adida: I propose that Clauses 36 – 38 be part of the Bill. I put a question that Clauses 36 – 38 be part of the Bill.

(Question put and agreed to)

CLAUSE 39

Hon. Adida: I propose that Clause 39 be part of the Bill. Chair!

Hon. Munda: On Sale and Consumption. Insert the words “authorized officer or” between the words “such” and “police” in the fourth line.

Hon. Adida: May I propose that Clause 39 be part of the Bill as proposed by the Chair. I put a question that Clause 39 as amended by the Chair be part of the Bill.

(Question put and agreed to)

CLAUSES 40 - 50

Hon. Adida: I propose that Clauses 40 - 50 be part of the Bill. I put a question that Clauses 40 - 50 be part of the Bill.

(Question put and agreed to)

CLAUSE 51

Hon. Adida: I propose that Clause 51 be part of the Bill.

Hon. Munda: That is on Enforcement. Insert a new section '51' on the establishment of the Enforcement Committee to read; "There is established the County Enforcement Committee which shall consist of;

- (a) The Chief Officer who shall be the chairperson of the committee
- (b) One authorized officer appointed under section 50
- (c) The officer responsible for coordination of national Government functions in the County
- (d) The County Public Health Officer
- (e) The officer incharge of police services in the County
- (f) The officer appointed by Kenya Bureau of Standards
- (g) One officer appointed by anti-counterfeit agency
- (h) One officer appointed by Department of Weights and Measures

Due to the insertion of a new clause in section 51, the Subsequent sections numbering of the Bill will be amended as follows;

- (i) Delete '51' and insert '52'
- (j) Delete '52' and insert '53'
- (k) Delete '53' and insert '54'
- (l) Delete '54' and insert '55'
- (m) Delete '55' and insert '56'
- (n) Delete '56' and insert '57'
- (o) Delete '57' and insert '58'
- (p) Delete '58' and insert '59'
- (q) Delete '59' and insert '60'
- (r) Delete '60' and insert '61'
- (s) Delete '61' and insert '62'
- (t) Delete '62' and insert '63'
- (u) Delete '63' and insert '64'
- (v) Delete '64' and insert '65'

(w) Delete '65' and insert '66'

(x) Delete '66' and insert '67'

Hon. Adida: May I propose a question that Clause 51 be amended as proposed by the Chair. May I put a question that Clause 51 be part of the Bill.

(Question put and agreed to)

CLAUSE 52

Hon. Adida: I propose that Clause 52 be part of the Bill. May I put a question that Clause 52 be part of the Bill.

(Question put and agreed to)

CLAUSE 53

Hon. Adida: I propose that Clause 53 be part of the Bill. Chair!

Hon. Munda: That is on Powers of officers. In section 53 of the Bill subsection (1) delete digit '52' and insert '53'

Hon. Adida: May I propose a question that Clause 53 be amended as proposed by the Chair. May I put a question that Clause 53 be part of the Bill.

(Question put and agreed to)

CLAUSES 54 – 58

Hon. Adida: I propose that Clauses 54 – 58 be part of the Bill. May I put a question that Clauses 54 – 58 be part of the Bill.

(Question put and agreed to)

CLAUSE 59

Hon. Adida: I propose the question that Clause 59 be part of the Bill. Chair!

Hon. Munda: Section 59 (2): Correct the word "issue" in line one.

Hon. Adida: May I propose a question that Clause 59 be amended as proposed by the Chair. May I put a question that Clause 59 be part of the Bill.

(Question put and agreed to)

CLAUSES 60 – 66

Hon. Adida: May I propose a question that Clauses 60 - 66 be part of the Bill. May I put a question that Clauses 60 – 66 be part of the Bill.

(Question put and agreed to)

CLAUSE 67

Hon. Adida: I propose the question that Clause 67 be part of the Bill. Chair!

Hon. Munda: Section 67: Amend the side note to read “Transitional Provisions”

Hon. Adida: May I propose a question that Clause 67 be amended as proposed by the Chair. May I put a question that Clause 67 be part of the Bill.

(Question put and agreed to)

FIRST SCHEDULE

Hon. Adida: I propose a question that the First Schedule be part of the Bill.

Hon. Munda: The First Schedule, that is on Licence Hours. Under the First Schedule of the Licence hours for the “Traditional brew licence” is amended by deleting ‘2.00pm’ and inserting ‘12.00 Noon’ and further deleting ‘9.00pm’ and inserting ‘6.00pm’

Hon. Adida: May I propose a question that the First Schedule be amended as proposed by the Chair. May I put a question that the First Schedule be part of the Bill.

(Question put and agreed to)

MEMORANDUM OF OBJECTS AND REASONS

Hon. Adida: May I propose that Memorandum of Objects and Reasons be part of the Bill.

Hon. Munda: Finally, Mr. Speaker, Sir, the Bill is amended under Memorandum of Objects and Reasons; Delete ‘Sylvester Madialo’ and insert ‘James Munda’, the part is further amended by deleting, ‘delegated legislation, justice and legal affairs’ and inserting; ‘Trade, Industry, Labour and Cooperatives’

Hon. Adida: May I propose a question that Memorandum of Objects and Reasons be amended as proposed by the Chair. May I put a question that Memorandum of Objects and Reasons be part of the Bill.

(Question put and agreed to)

TITLE

Hon. Adida: May I propose that the Title be part of the Bill. I put the question that the Title be part of the Bill.

(Question put and agreed to)

CLAUSE 1

Hon. Adida: May I propose that Clause 1 be part of the Bill. I put the question that Clause 1 be part of the Bill.

(Question put and agreed to)

Hon. Adida: Hon. Members, before the Bills are reported back to the House, we go to the next Bill and I urge everybody to participate.

(Loud consultations)

Hon. Adida: Hon. House, we are now on the third Bill, actually it was meant to be the second Bill on our Order Paper, that is the Siaya County Public Works Bill, 2015. Bill No. 7 of 2015. Chairperson, Committee on Public Works! The Chair was not there, so I propose Hon. Booker.
CLAUSE 2

Hon. Adida: I propose a question that Clause 2 be part of the Bill. May I put a question that Clause 2 be part of the Bill?

(Question put and agreed to)

CLAUSE 3

Hon. Adida: I propose a question that Clause 3 be part of the Bill. May I put a question that Clause 3 be part of the Bill?

(Question put and agreed to)

CLAUSES 4 AND 5

Hon. Adida: I propose a question that Clauses 4 and 5 be part of the Bill. May I put a question that Clauses 4 and 5 be part of the Bill?

(Question put and agreed to)

CLAUSE 6

Hon. Adida: I propose a question that Clause 6 be part of the Bill.

Hon. Minami: Thank you, Madam Chair. Part II of clause 6 inserts the qualifications of the Director and Deputy Directors. *Clause 6 be replaced by* 'The Directorate shall be headed by a director who must be an engineer in a relevant field and be registered by a professional body. The Directors shall be deputized by Deputy Directors who must

be engineers in relevant fields and be registered by a relevant professional body who will respectively be in charge of the Following sections:

- f. Architectural
- g. Quantities and Contracts
- h. Electrical and Mechanical
- i. Structural and Civil engineering
- j. Maintenance of buildings and other works.'

Hon. Adida: May I propose a question that Clause 6 be amended as proposed by the Chair. May I put a question that Clause 6 be part of the Bill?

(Question put and agreed to)

CLAUSE 7

Hon. Adida: I propose the question that Clause 7 be part of the Bill. May I put a question that Clause 7 be part of the Bill?

(Question put and agreed to)

CLAUSE 8

Hon. Adida: I propose the question that Clause 8 be part of the Bill.

Hon. Minami: In clause 8 under powers of the Directorate, insert (f) The Directorate shall have the power to form sub committees to ease execution of operations and mandates within their powers.

Hon. Adida: May I propose a question that Clause 8 be amended as proposed by the Chair. May I put a question that Clause 8 be part of the Bill?

(Question put and agreed to)

CLAUSE 9

Hon. Adida: May I propose a question that Clause 9 be part of the Bill?

Hon. Minami: Part III clause 9. ‘
There shall be established a research center
for the purposes of *Be replaced by* The
directorate shall establish a research center
for the purposes of.’

Hon. Adida: May I propose a
question that Clause 9 be amended as
proposed by the Chair. May I put a
question that Clause 9 be part of the Bill?

(Question put and agreed to)

CLAUSE 10

Hon. Adida: I propose the
question that Clause 10 be part of the Bill.
May I put a question that Clause 10 be part
of the Bill?

(Question put and agreed to)

CLAUSE 11

Hon. Adida: I propose the
question that Clause 11 be part of the Bill.

Hon. Minami: Thank you,
Madam Chair. Clause 11, Delete section 9
and replace by section 10

Hon. Adida: May I propose a
question that Clause 11 be amended as
proposed by the Chair. May I put a
question that Clause 11 be part of the Bill?

(Question put and agreed to)

CLAUSE 12

Hon. Adida: May I propose a
question that Clause 12 be part of the
Bill.?

Hon. Minami: Thank you, Madam
Chair. Clause 12, Delete section 9 and
replace by section 10.

Hon. Adida: May I propose a
question that Clause 12 be amended as
proposed by the Chair. May I put a
question that Clause 12 be part of the Bill?

(Question put and agreed to)

CLAUSE 13

Hon. Adida: May I propose a
question that Clause 13 be part of the Bill?

Hon. Minami: Clause 13 (a) The
prescribed fee *Be replaced by* The
prescribed fee as indicated in the Finance
Act.

Hon. Adida: May I propose a
question that Clause 13 be amended as
proposed by the Chair. May I put a
question that Clause 13 be part of the Bill?

(Question put and agreed to)

CLAUSES 14 AND 15

Hon. Adida: May I propose the
question that Clauses 14 and 15 be part of
the Bill. May I put a question that Clauses
14 and 15 be part of the Bill?

(Question put and agreed to)

CLAUSE 16

Hon. Adida: I propose the
question that Clause 16 be part of the Bill.

Hon. Minami: Clause 16 insert
“Public” between County and Works in the
first line. The Directorate of County
Works shall keep and maintain a
Register... *Be replaced by* The Directorate
of County Public Works shall keep and
maintain a Register...

Hon. Adida: May I propose a
question that Clause 16 be amended as
proposed by the Chair. May I put a
question that Clause 16 be part of the Bill?

(Question put and agreed to)

CLAUSE 17

Hon. Adida: May I propose the
question that Clause 17 be part of the Bill?

Hon.Minami: Clause 17. The Register of Buildings shall be a County document and any person may, upon payment of a fee to be prescribed by the directorate of Public Works, apply for a certificate of search of any register building. *Be replaced by* The Register of Buildings shall be a County document and any person may, upon payment of a fee to be prescribed in the Finance Act, apply for a certificate of search of any register building.

Hon. Adida: May I propose a question that Clause 17 be amended as proposed by the Chair. May I put a question that Clause 17 be part of the Bill?

(Question put and agreed to)

CLAUSE 18

Hon. Adida: May I propose a question that Clause 18 be part of the Bill?

Hon.Minami: Clause 18 (j) The area of the building in square meters *Be replaced by* The area of building in square meters.

Hon. Adida: May I propose a question that Clause 18 be amended as proposed by the Chair. May I put a question that Clause 18 be part of the Bill?

(Question put and agreed to)

CLAUSES 19 AND 20

Hon. Adida: May I propose a question that Clauses 19 and 20 be part of the Bill? I now put a question that Clauses 19 and 20 be part of the Bill.

(Question put and agreed to)

CLAUSE 21

Hon. Adida: I propose a question that Clause 21 be part of the Bill.

Hon.Minami: Clause 21. The word food as captured in the last line to *be replaced by* flood.

Hon. Adida: May I propose a question that Clause 21 be amended as proposed by the Chair? I now put a question that Clause 21 be part of the Bill.

(Question put and agreed to)

CLAUSE 22

Hon. Adida: I propose the question that Clause 22 be part of the Bill.

Hon.Minami: Clause 22, (2). Any study done under subsection will be at the expense of the applicant *Be replaced by* Any study done under **this** subsection will be at the expense of the application.

Hon. Adida: May I propose a question that Clause 22 be amended as proposed by the Chair? I now put a question that Clause 22 be part of the Bill.

(Question put and agreed to)

CLAUSE 23

Hon. Adida: I propose a question that Clause 23 be part of the Bill.

Hon.Minami: Clause 23;

- (3) Where there is a storm water pollution incident as contemplated in this Act, the owner of the property on which the incident took place or is still in the process of taking place or the person responsible for the incident shall immediately report the incident to the County.
- (4) The County may in its opinion require that such persons take all the reasonable measures to minimize the effects of the pollution at their own cost.

Be replaced by;

- (3) Where there is a storm water pollution incident as contemplated in this Act, the owner of the property on which the incident took place or is still in the process of taking place or the person responsible for the incident shall immediately report the incident to the directorate.
- (4) The directorate may in its opinion require that such persons take all the reasonable measures to minimize the effects of the pollution at their own cost.

Hon. Adida: May I propose a question that Clause 23 be amended as proposed by the Chair? I now put a question that Clause 23 be part of the Bill.

(Question put and agreed to)

CLAUSE 24

Hon. Adida: May I propose the question that Clause 24 be part of the Bill. I now put the question that Clause 24 be part of the Bill.

(Question put and agreed to)

CLAUSE 25

Hon. Adida: May I put a question that Clause 25 be part of the Bill?

Hon. Minami: Clause 25. The County executive member for the time being responsible for matters related to public works may make regulations relating to the manner of disposing water falling or coming to rest with private property.
Be replaced by; The County Executive Member for the time being responsible for matters related to public works may make regulations; subject to approval of The County Assembly, relating to the manner

of disposing water falling or coming to rest with private property or any other matter relating to storm water management.

Hon. Adida: May I propose a question that Clause 25 be amended as proposed by the Chair. I now put a question that Clause 25 be part of the Bill.
MEMORANDUM OF OBJECTS AND REASONS

Hon. Adida: May I propose the question that Memorandum of Objects and Reasons be part of the Bill. I now put a question that Memorandum of Objects and Reasons be part of the Bill.

(Question put and agreed to)

CLAUSE 1

Hon. Adida: May I propose the question that Clause 1 be part of the Bill. I now put the question that Clause 1 be part of the Bill.

(Question put and agreed to)

TITLE

Hon. Adida: May I propose the question that Title be part of the Bill. I now put the question that Title be part of the Bill.

(Question put and agreed to)

Hon. Minami: Madam Chair, I beg to move that the Committee do report to the House its consideration on the Siaya County Public Works Bill, 2015 and its approval thereof with amendments. Thank you.

Hon. Adida: I put the question which is that the Committee do report to the House its consideration on the Siaya County Public Works Bill, 2015 and its approval thereof with amendments.

(Hon. Adida leaves the Chair, Hon. Adera in the Chair)

Hon. Adera: After proposing the question, I put a question that the Committee do report to the House its consideration on the Siaya County Public Works Bill, 2015 and its approval thereof with amendments.

(Question put and agreed to)

Hon. Adera: Hon. Members, we go back to Siaya County Disaster Management Bill and have the Chair propose whether the House should report to the Whole House its consideration. Chair!

Hon. Osuri: Thank you. I beg to move that the Committee do report to the House its consideration of the Siaya County Disaster Management Bill, 2015 and its approval thereof with amendments.

Hon. Adera: I shall put the question which is that the Committee do report to the House its consideration of the Siaya County Disaster Management Bill, 2015 and its approval thereof with amendments.

(Question put and agreed to)

Hon. Adera: I shall do the same with the Siaya County Alcoholic Drinks Control Bill, 2015.

Hon. Munda: Mr. Chairperson, I beg to move that the Committee do report to the House its consideration for the Siaya County Alcoholic Drinks Control Bill, 2015 and its approval thereof with amendments.

Hon. Adera: I shall put the question which is that the Committee do

report to the House its consideration of the Siaya County Alcoholic Drinks Control Bill, 2015 and its approval thereof with amendments.

(Question put and agreed to)

(The Hon. Speaker (George Okode) walks into the Chambers)

(Hon. Speaker (George Okode) in the Chair)

Hon. Speaker: Yes, Chairperson!

Hon. Adera: Thank you, Mr. Speaker. While you were away, the House was in the Committee of the Whole House and we did consider three Bills and at this point, I beg to report that the Committee of the Whole House has considered; The Siaya County Disaster Management Bill, 2015, and approved the same with amendments.

Hon. Speaker: Yes, Chairperson of the Committee!

Hon. Osuri: Thank you, Mr. Speaker. I beg to move that the House do agree with the Committee on the said report.

Hon. Speaker: Hon. Members, I propose that the House do agree with the Committee on the said report. Hon. Members, I put the question which is that the House do agree with the Committee on the said report.

(Question put and agreed to)

Hon. Osuri: Thank you, Mr. Speaker. I beg to move that the Siaya County Disaster Management Bill, 2015 be now read a third time.

Hon. Speaker: Hon. Members, I propose the question which is that the Siaya County Disaster Management Bill,

2015 be now read a third time. Hon. Members, I put the question which is that the Siaya County Disaster Management Bill, 2015 be now read a third time.

(Question put and agreed to)

THE SIAYA COUNTY DISASTER MANAGEMENT BILL, 2015. AN ACT OF THE COUNTY ASSEMBLY OF SIAYA TO PROVIDE FOR A MORE EFFECTIVE ORGANISATION OF DISASTER RISK REDUCTION AND MITIGATION OF, PREPAREDNESS FOR, RESPONSE TO, AND RECOVERY FROM EMERGENCIES AND DISASTER IN SIAYA COUNTY AND FOR CONNECTED PURPOSES
(THIRD READING)

Hon. Speaker: Next!

Hon. Adera: Mr. Speaker, our second Bill that we tackled at the Committee of the Whole House was the Siaya County Public Works Bill, 2015, and I wish to report that the House approved the same with amendments.

Hon. Speaker: Committee Chair!

Hon. Minami: Thank you, Mr. Speaker. I beg to move that the House do agree with the Committee in the said report.

Hon. Speaker: I propose that the House do agree with the Committee in the said report. Hon. Members, I put the question which is that the House do agree with the Committee in the said report.

(Question put and agreed to)

Hon. Minami: Thank you, Mr. Speaker. I beg to move that the Siaya County Public Works Bill, 2015, be now read a third time.

Hon. Speaker: Hon. Members, I propose the question which is that the Siaya County Public Works Bill, 2015, be now read a third time. Hon. Members, I put the question which is that the Siaya County Public Works Bill, 2015, be now read a third time.

(Question put and agreed to)

THE SIAYA COUNTY PUBLIC WORKS BILL, 2015. A BILL FOR AN ACT OF THE COUNTY ASSEMBLY OF SIAYA TO PROVIDE FOR THE ESTABLISHMENT, POWERS AND FUNCTIONS OF THE DIRECTORATE OF PUBLIC WORKS AND CONNECTED PURPOSES *(THIRD READING)*

Hon. Speaker: Next!

Hon. Adera: Mr. Speaker, our third Bill that we tackled and considered, which I also wish to report to this House is that the Committee considered the Siaya County Alcoholic Drinks Control Bill, 2015 and approved the same with amendments.

Hon. Munda: Mr. Speaker, Sir. I beg to move that the House do agree with the Committee on the said report.

Hon. Speaker: Hon. Members, I propose the question which is that the House do agree with the Committee on the said report. I put the question which is that the House do agree with Committee on the said report.

(Question put and agreed to)

Hon. Munda: Mr. Speaker, Sir, I beg to move that the Siaya County Alcoholic Drinks Control Bill, 2015, be read a third time.

The House rose at 11.00 a.m.

Hon. Speaker: Hon. Members, I propose the question which is that the Siaya County Alcoholic Drinks Control Bill, 2015, be now read a third time. Hon. Members, I put the question which is that the Siaya County Alcoholic Drinks Control Bill, 2015, be now read a third time.

(Question put and agreed to)

THE SIAYA COUNTY ALCOHOLIC
DRINKS CONTROL BILL, 2015. A
BILL FOR AN ACT OF THE COUNTY
ASSEMBLY OF SIAYA TO PROVIDE
FOR THE LICSENCING AND
REGULATION OF THE PRODUCTION,
SAME
DISTRIBUTION, CONSUMPTION AND
ADVERTISING OF ALCOHOLIC
DRINKS AND FOR CONNECTED
PURPOSES *(THIRD READING)*

Hon. Speaker: Next order!

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members, be upstanding for adjournment.

(Members rise for adjournment)

Hon. Speaker: Hon. Members, there being no other Business, this House adjourns until today, 30th March, 2016 at 2.30pm

WEDNESDAY, 30TH MARCH, 2016

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

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

PRAYER**MOTION**

REPORT OF THE COMMITTEE OF HEALTH
ON THE FATE OF TWO ACCOUNTANTS AT
BONDO SUB COUNTY HOSPITAL

Hon. Speaker: Chairperson,
Committee on Health Services!

Hon. Were: Thank you very much,
Mr. Speaker, Sir. Allow me to move a
Motion that; THIS House adopts the report
of the Committee on Health Services on
the fate of two accountants at Bondo Sub
County Hospital, laid on the Floor of the
House on Tuesday, 29th March, 2016.

Mr. Speaker, Sir, on behalf of
Members of the Committee on Health
Services inquiring into the fate of Nelly
Nora Atieno and Kennedy Obondo Osodo
who were serving as hospital accountants
at Bondo Sub County Hospital, I am
pleased to present this report to this
honorable House.

On 29th October, 2015, the County
Assembly received a statement from Hon.
Joannes Andiego, MCA representing
Central Sakwa Ward seeking to know the
following:

- i. Why the Siaya County Public
Service Board did not resort to
suitability assessment for the two
officers as has been done in other
Departments of the County
Government and instead went for
the expensive route of

advertisement and subsequent
processes.

- ii. Why the two serving officers were
not given first priority in the
preferred method of recruitment
but instead lumped with 19
candidates shortlisted for only two
positions.
- iii. Whether the Board observed
provisions of secondment as laid
down in the County Government
Act, 2012 section 73 when dealing
with cases of the above mentioned
officers.

The Committee held a total of three
(3) meetings and engaged the Secretary to
the County Public Service Board and the
two officers in question.

Summary of findings

A key finding of the Committee
was that the recruitment process for the
positions of the Health Accountants has
been concluded by the Board and
subsequently two successful candidates;
namely Mr. Kennedy Obondo and Ms.
Nelly Norah appointed on merit as
Hospital Accountants and deployed in the
Department of Health and Sanitation.

Committee's Mandate

The Committee on Health Services
is one of the Sectoral Committees
established pursuant to provisions of
Standing Order No. 192, whose mandate is
to deliberate on all matters related to
County health services, including County
health facilities and pharmacies,
ambulance services, promotion of primary
health care, licensing and control of

undertakings that sell food to the public, cemeteries, funeral parlors and crematoria and refuse removal, refuse dumps and solid waste disposal.

Acknowledgement

I wish to record the committee's gratitude to the House for having entrusted us with the execution of the important duty of contributing to the efforts of improving provision of health services in Siaya County. The Committee is thankful to the entire Membership for their dedication and commitment during the fact finding and deliberations that made this report a reality. The Siaya County Public Service Board for their cooperation and the office of the Assembly Clerk for related facilitations and our Clerk Assistants for ably coordinating communication with the relevant parties. It is now my pleasant duty, on behalf of the Committee on Health Services, to present this report for immediate consideration and adoption by the House. The committee prays that this honorable House adopts the recommendations proposed in this report.

SUBMISSIONS FROM THE SECRETARY, SIAYA COUNTY PUBLIC SERVICE BOARD.

(See annex 1)

Mr. Speaker, Sir, the Committee met the Secretary to the Public Service Board on 26th January, 2016 to discuss the issues stated above. The Chief Officer of Health declared a vacancy for recruitment of Hospital Accountants through advertisement but did not disclose to the Board that there were accountants who were already serving in his establishment with the same skills required. The Board being the recruiting agent, recruits based on the request of the user Department and

therefore the Board is not in a position to tell why suitability test was not done. The two accountants are not in the County payroll either as casuals, contractual or permanent and pensionable staff and their previous engagement to work in the County is not known to the Board.

The Officers have been serving on contractual terms between them and the Hospital Administrators contrary to section 74 of the County Government Act, 2012. Giving the particular candidates priority in the shortlisting would be contrary to the law on recruitment and selection and abuse of powers of the County Public Service Board.

Both Mrs. Nelly Norah Atieno and Mr. Kennedy Obondo applied for the position of the Hospital Accountant and were accorded equal consideration among other applicants during the shortlisting and were actually shortlisted. Since health is a devolved function, the names of the officers would have been sent to the County together with their payroll numbers. Both the officers underwent a competitive recruitment process and emerged successful and appointed on merit.

SUBMISSIONS FROM MR. KENNEDY OBONDO OSODO

The Committee met the above officer on Friday, 18th March, 2016. The Officer stated as follows:-

- Before devolution, he was serving in Bondo Sub County Hospital on contract with the National Government.
- When health was devolved, the contract was now between him and the facility.

- He applied for the position of hospital accountant but was not shortlisted
- He raised the complaint with the area MCA, Hon. Joannes Andiego who went with him to the office of the Chairman Siaya County Public Service Board.
- He was shortlisted afterwards, went for the interview, emerged successful and is now deployed at the Headquarters of the Department of health as Accountant II

SUBMISSIONS FROM Ms. NELLY NORAH

The Committee met the above officer on Friday, 18th March, 2016.

- Before devolution, she served in Bondo Sub County Hospital on contract with the National Government for two years
- When health was devolved, the contract was now between her and the facility.
- She applied for the position of hospital accountant and was shortlisted.
- She, however, felt that since she has been serving, she ought to have been given first priority. When the vacancies were advertised, she applied, went for the interview emerged successful and was deployed to the Siaya County Referral Hospital.

COMMITTEE OBSERVATIONS

- The two Accountants were not on payroll before the inception of devolution and there was no way they could be seconded to The County Government of Siaya.
- The issues raised in the statement have been overtaken by events

since the two individuals in question have since been hired and deployed.

- The statement request did not have facts as shown by the Committee findings.
- The Committee further notes that Section 232 (g) of the Constitution of Kenya states that the Public Service Board should observe *(i), fair competition and merit as the basis of appointments and promotions*; which illegalizes preferential treatment of any candidate.

COMMITTEE RECOMMENDATIONS

It is prudent to have factual information when raising an issue on the Floor of this Honorable House.

That is our recommendation, other correspondences between the other agencies are here, I request Hon. Owii to second.

(Hon. Owii stands to second)

Hon. Speaker: Thank you. Hon. Members, I propose the question which is:- THAT this House adopts the report of the Committee on Health Services on the Fate of the two Accountants at Bondo Sub County Hospital laid on the Floor of the House on Tuesday, 29th March, 2016. Yes, Hon. Joannes Andiego!

Hon. Andiego: Thank you, Mr. Speaker, for giving me this opportunity to contribute. I raised a Statement in this House last year, October 29th. First and foremost I am not happy with the Committee for taking long with this report. As the Statement has just been read by Hon. Were, Chairman Health, it shows what my key problem with the situation was. I want us briefly to go through the

report, the submissions of one Kennedy Obondo, on page 8.

Mr. Obondo states very well that he applied for the position of Hospital Accountant but was not shortlisted and in the annex, page 31, there is also where the Board gave their report. It reads; *that contrary to the Statement by the MCA that Mr. Kennedy Obondo was left out of the shortlist, it should be noted that both Mrs. Nelly Norah Aieno and Mr. Kennedy Obondo applied for the position of Hospital Accountant and were accorded equal consideration among other applicants.* So, if you look at the submissions of Kennedy Obondo against the one by the Board, they totally contradict each other.

Mr. Speaker, why I brought this Statement in this Assembly was not only for Kennedy Obondo but also for the whole County of Siaya, where a situation is developing. Our children in this County cannot be accorded the opportunity when they ask for jobs in this County. Kennedy Obondo has stated here that he has been working for over 5 years in the same field, whether employed or not and I wonder why somebody with experience applied for a job and is not being shortlisted. I am a living testimony that I personally went, checked the list with the Board and the name of Kennedy Obondo was missing in the shortlisted candidates.

I then talked to the Board Chair who accepted to include Kennedy Obondo's name in the list and you can confirm from the list that Kennedy Obondo was listed as number 19. In a situation where two Accountants were to be employed, I think that the law says that not more than 10 people should be shortlisted, five per position and here is a situation where the Board shortlisted 20.

This shows that there is a problem with our Board and if we cannot stand firm against such malpractices and give fair competition to everyone, then it means our children will not get jobs in this County unless you know somebody in that Board. This is what we are standing against; we don't want unfair competition to be given to our children.

I am also not happy with the way the Board has handled this issue. I brought this Statement in this Assembly last year on 29th of October, and today we are in March 30th when we get the report. If you look at the report, the Committee states on page 6, paragraph 2, *the issues raised in the Statement have been overtaken by events since the two individuals in question had since been hired and deployed.* They were hired and deployed because we intervened. I want to state in this Assembly that I personally had to move to all offices meeting each and every person because these people were two in Siaya County and one lady by the name Nelly was shortlisted for the job and Kennedy Obondo whom they were working with in the same field was left out. This is why I raised a Statement to know why Kennedy was left behind and the other lady taken.

So, I am on my feet to reject this report of the Health Committee. In the last part; the Committee recommendations, *that it is prudent to have factual information when raising an issue in the Floor of this Hon. House.* This is a Committee; my name was mentioned when there was a submission. I wonder why they did not call me as a Committee to interrogate me because the affected person told the Committee that he came to the MCA and it is the MCA who moved with him from office to office to ensure

that his name is included in the Short list. I would have wished that they invited me also to know much of what was happening. I am now requesting that this Committee, whatever they did, is substandard and they should redo it. Thank you, Mr. Speaker.

(Applause)

Hon. Speaker: Hon. Rosemary!

Hon. Ogutu: Thank you, Mr. Speaker, Sir. I just want to add my voice on this report from the Committee on Health. I thank the Committee that at least some information has been brought and I want to concur with Hon. Andiego that a Hon. Member has to bring a Statement in the House so that they get some information and that is why the Hon. Member brought the Statement here. If you look at how employment is being done in the County, I am telling you, I also tried and advised some youths to apply for some jobs which were advertised in the papers and when they applied, it's like I opened a Pandora box now to negotiate, which in the long run I had to run away from.

Mr. Speaker, Sir, only to call the Board Chairperson and he told me that those positions were not there and I asked, "why were you advertising them?" I was told; we wanted to formalize some positions. So, sometimes it becomes very political for an elected Member, when people are looking for jobs they saw on papers, so you have to go and knock at each and every door to get the information.

Therefore, what I want to say is that, when a Committee comes up with recommendations that *'it is prudent to have factual information when raising an issue in the floor of the House'*, this is a one man recommendation and I know this

is language from Hon. Were, this is not a Committee recommendation

(Applause)

And I want to reject his report; we want recommendations coming from the Committee, not individual recommendations.

(Applause)

Thank you, Mr. Speaker; I reject the report in totality.

Hon. Speaker: Hon. Members, you even know our languages?

(Laughter)

Hon. Oriaro: Thank you, Mr. Speaker. I thought that it is only Hon. Oriaro's language that is unique. We are getting too insincere in so far as the earlier position in the employment sector of Kennedy Obondo and Nelly Norah, that they were contracted by the former Central Government to operate in this facility, that one is very valid. Mine will not be to reject but to plead with the House and the mover that the report be withdrawn on one condition, because the Hon. Member who raised the Statement is also not agreeing with this report. I don't agree with them on other avenues but I will try to concur with them in one area to strengthen the ground for withdrawing the report.

Sometime back, the National Government in concurrence with the forum that the Governors usually have, had agreed that members who are in employment in our hospitals be deployed, that one was agreed on and recently we saw what happened in the High Court based in Nairobi when some practitioners

in the Health sector had gone to Court. Siaya and Bomet, where Isaac Ruto comes from was put in an awkward situation when they were directed by the Court of Appeal to see to it that the Agreement arrived at between the National Government and the Council of Governors be adhered to because it was only Siaya and Bomet who refused unilaterally to engage these people, it is very clear that those people were engaged by the former Central Government.

I am in agreement with the directive of the Court. This Statement came much earlier ahead of the resolution of the High Court, the Court of Appeal, so the Statement be withdrawn and the Committee goes back and write their new report that will be in consonance with the ruling of the High Court and other considerations because the Hon. Member is saying that he was not brought into the picture while the Committee was working out on fact finding. Those are the few weaknesses and for us to lay a better ground for problem solving in future, that is why I was requesting that the Chair withdraws the report so that at the end of the day, the content, which is per excellent is not taken over by just a mere remark in the place of recommendation. Thank you, Chair.

Hon. Okuku: Thank you, Mr. Speaker, for giving me this opportunity this afternoon to wake up and talk about this afternoon's debate. I am really surprised with the report because they indicated that the Hon. MCA for Central Sakwa, Hon. Andiego, took with him the victims; the two Accountants to the office of the Board Chairperson so that the Chair could assure him and could shortlist these two members or one of them; Mr. Obondo for the position which was clearly

advertised, to be fairly competed for by the people of Siaya. Had it been that this position was advertised when the Hon. Member was out of the Country or was not feeling well, it means that Obondo could have suffered yet he has served and is qualified to be shortlisted as any other member within the society and in particular, Siaya County.

This shows that we are still behind and even the County Board which is responsible for the issues of employment is not doing a fair deal to the Community of Siaya whom we represent. For how long will the people of Siaya be looking for their representatives when they are to be shortlisted for jobs? This is an obvious weakness that I think this Assembly should get a way of putting a stop to

This is a very clear way of impunity and a very big disservice to people of Siaya. As I read the report yesterday, I realized that the problem for Hon. Member for Central Sakwa had been sorted though the report came much later and it has been taken by events and as at now, I don't have any good reason to object to the report because a solution has been found.

I am wondering how the men and women of Siaya are suffering in the hands of the administration, the people who are charged with clear responsibility by the constitution of Kenya to sit in the offices and serve them. If a person who is qualified can't be short listed then how can we trust the Donde team that they are doing a proper listing where they are. This is uncalled for, it is improper and it's unwarranted in the County Government of Siaya. I think we are winding up the first lap of Devolution which is 5 years 1 term and I don't know when we shall change as

leaders and start offering better services to our people whom we represent.

I really wonder and want to plead with the person who brought the statement, Hon. Andiego, that because the report has given us a solution of the 2 encounters that we wanted to know and so far they have been employed, I think we should not send the report of the Committee back to be redone. I think we should just look into ways to put measures and structures to compel the administration of Rasanga and Donde to ensure that people of Siaya are given a fair platform for competition and I rest my case this afternoon. May God bless you.

Hon. Okello: Thank you for the opportunity to contribute on the same. As much as the question raised this afternoon appears to be about two individuals; one Kennedy Obondo and his counterpart, for me this statement has been an excellent opportunity for the recruiting agencies, that is the County Service Board, to do an internal audit of themselves and address themselves to the main question that we have raised on the Floor of this House. As previous speakers have suggested, the recruitment process in Siaya, to say the least, has been shrouded in mystery, uncertainty and more often than not, left the young members of the society with little faith on the opportunities and ability as well as confidence to get jobs they apply for in this County.

By their own admission as owned by the submission of Hon. Andiego that in this County today it appears that it's technically impossible for a young man coming from the local areas, say Gangu of Alego, or Tingaren, who does not know anybody to hold their hands or act as their godfather. These are the kind of people who are not able to apply competitively for

a job and--- than team to at least attend an interview by way of short listing. It has been reported that Hon. Andiego had to hold Mr. Kennedy Obondo by hand for him to get shortlisted. I think this really is matter that should move any right thinking Citizen of Siaya into tears, three or four years down the line we still find ourselves in the same scenario where influence has to be peddled for one to get basic opportunity for a job. For me this is beyond the two Counties I am talking about and it should be all about sensitizing the whole recruitment process, that is the County Service Board.

It is not the first time we are discussing the recruitment process and the kind of mystery that surrounds it. Sometime back when this Assembly talked about recruitment of ECD teachers, it was nearly the same case where we had people from different Wards being deployed in other Wards and it was chaos all over and that has been the case with other Government employments. The verdict we are talking about today is that we have a Public Service Board that either greatly suffers from lack of independence or is just grossly incompetent and is hell bent on taking away rights of young people of Siaya who are willing to offer service to this County. If you read part of their responses and I agree with Hon. Rosemary that she found a language that she's familiar with, I find the language that was used by the Public Service Board to be very rude.

In their response No. 1- why they didn't carry out a suitability test on Mr. Kennedy Obondo and Nelly Noah Atieno, they quote section 45.4 of the County Government act and say that it's not their duty at all and it's the Chief Officer of --- the Government who made the

announcement and advertisement and didn't disclose to the Board that there were Accountants who were already serving in their establishment in the same capacity as required.

It would make very little sense for a Board, say if today the Department of Agriculture was to declare a vacancy; wouldn't it be prudent for the Public Service Board to at least engage to see if their work is really valued, do they still go ahead and spend tax payers' money in doing advertisement which at the end of the day it appears they don't need. Why raise anxiety by short listing 19 people and at the end of the day they ended up retaining the two people that were serving before. Why go to all these lengths to raise anxiety and expectation of 17 people when you know too well that you are not going to give them an opportunity?

Why spend tax payers' money to do interviews, wasting peoples' transport monies and exposing them to unnecessary torture knowing too well that you are not going to give them an employment opportunity? I believe that if it were not for the intervention of Hon. Andiego, these people wanted to auction this position and sell to the highest bidder and they were caught with their pants down and I want to congratulate Hon. Andiego and the Committee of this House for standing against this kind of exploitation that was going to befall the people of Siaya County. If that's not the case, it was possible for them to use suitability assessment and engage Obondo and Atieno without trying to go through that process.

By virtue of the statement of this report, the Assembly has once more stood to be counted as an overseer and an oversight authority that has kept in check the County Government of Siaya which

is hell bent on running this County and take us 30 years back in the KANU era. Finally, I want to say that this report has exposed the rot in this Board, but I also want to support Hon. Andiego that it is wrong for this Committee to insinuate that members must have factual information. As stated here, will not help and the recommendation is not in good taste and we shall not support the report as it is but leave it at the discretion of the chairperson to guide. Therefore, if he withdraws particular comments then we don't have any reason to reject it, otherwise for now I personally reject it.

Hon. Ndonji: Thank you and I want to confess that I am tied between a rock and a hard place because from the deliberations that I have heard, there are some insinuations that the report had come from one person in that particular Committee and I don't know whether to contribute on the side of the Committee or the side of an individual. All the same I have decided to contribute following what is reported and considering where the report came from as it has been accepted by this House though the Committee of the report seems to have passed it even if it was done by one member.

First, I want to say that whatever is happening here indicates what has been happening in the executive for a long time. There is no need for advertising for positions when you already know what you want, yet it should not be done as a formality. It should be done such that the best person is found and at the same time you will find that the people who are

holding positions have been taken through an exercise to ascertain their suitability, but I also want to think that for someone to hold a position for such a time, it must be that they went through a certain exercise to ascertain their suitability.

I don't know why these other two people were not taken through the suitability test and yet for someone to hold a position, they must go through the same. Lastly, what I want to say is that it is Hon. Andiego who brought the report, but has also shown not to be convinced with it and therefore I am not supporting the report because the person who wanted the answer has also rejected the report, thank you.

Hon. Speaker: Yes, Hon. Edwin Otieno.

Hon. Otieno: Thank you, I only have one comment to make and it is on the recommendation of this Committee which after having five sittings and having those observations, all they could come up with is only this! It is prudent to be factual in the formation when raising an issue on the floor of this Honorable House and indeed I want to concur with Honorable members that this is not work by a Committee, a Committee where the Majority leader, the chief whip, deputy whip and where the chairperson of Budget Committee sits.

This House may not continue enjoying the kind of respect that it has been enjoying over the years. Unfortunately, my

humble request to the chair of this Committee is to humbly accept and withdraw this report so that it does not reach the voting stage which I believe might be embarrassing to the members I have mentioned above. I therefore reject this report in totality.

Hon. Speaker: Honorable members, let us not fear rejecting the report. It is also one way through which we express our displeasure with the content or recommendations of the report. So don't struggle so much with amending it, when you reject you are also saying that you are not comfortable with it and when you pass it you are also saying yes, it is the way the House deems it fit. If there are no more contributions, I shall go to questions.

Hon. Oriaro: Mr. Speaker, Sir, Can you donate to me some of you airtime?

(Loud consultations)

(Laughter)

Hon. Speaker: The Speaker doesn't have airtime to donate. The rules require that you speak once on a Motion. Yes, Hon. Zilpah.

Hon. Omondi: Thank you, Mr. Speaker. I want to state my observation. The issues raised on the Statement have been overtaken by events since the people in question have been hired and deployed. I don't think that is a fair conclusion because the issue was

on fairness while it was very clear that Mr. Osodo had applied but was not even shortlisted. The issue is; was there fairness? So the Committee is telling us that that unfairness has been overtaken by events, that Mr. Osodo and the lady have been deployed.

If this is the way things are done, how are we sure that the kind of employees we get in this County are competent and is it really fair to deny somebody who qualifies for a position the right to participate in the interview and be assessed along with the others? So to me that Statement is not fair. Together with my other colleagues, I say we reject it.

It is not an issue of recruiting; we simply reject it because there should be fairness in this County, which is the essence of devolution. But if we fail to be fair, then we better go back to the Central Government way. If you cannot have mercy on your own people, who will you ever serve. Thank you, Mr. Speaker.

Hon. Speaker: Yes, Hon. Deputy Majority Leader.

Hon. Owii: Thank you, Mr. Speaker, Sir; I don't know how I shall handle myself because earlier I was called upon by the Hon. Chair. As usual, loyalty is our way of life.

(Laughter)

I want to exonerate myself that in as much as I am a Member of that Committee; that does not actually stop me from exercising

my faith. Either way things did not go well, because the report we got from Hon. Andiego says that if you want your kinsman to be hired, then you have to take your time and go to the corridors of the CPSB and then see how you can sweet-talk the Chair, Secretary and the likes of those characters.

I think you should just work your way, I would say that if that is the way to go, then even from our side we are wrong. It was pointless, because if one applies and he fails to be shortlisted, there is nothing bad about it.

There must be reasons why people can fail to be shortlisted. But now what actually surprises me is that if one was not shortlisted and then somebody or a Member pushes his way to force the CPSB to shortlist then eventually to hire; then we are wrong.

So I want to suggest that maybe somebody was denied a chance, simply because there was nobody to walk the path for them. Personally, at the end of this report, you saw me just sign because I didn't know how to behave about the report with that kind of issue. It was seriously unfair for a Committee.

Hon. Migaya: Point of Order!

Hon. Speaker: Yes, Hon. Migaya.

Hon. Migaya: Thank you, Mr. Speaker, Sir; I don't know whether it is really right for my colleague who is one of the Committee Members to do this. He was there in those meetings and he

is the one who contributed to this last recommendation that has brought a lot of heat. There is no way my fellow colleague can deny this here, like the one who denied Jesus Christ.

(Laughter)

Hon. Speaker: Hon. Members, the Speaker and the other Members who were not part of the Committee do not know who was there and who was not there. You are the people who know.

Hon. Owii: I am just winding up.

Hon. Speaker: Order! Take your seat! Hon. Zilpah, is it a point of Order!

Hon. Omondi: Thank you, Mr. Speaker, Sir. The Hon. Member is a member of that Committee and I believe that he was in the report writing and if he denies that he was there, then the records of payment should be checked. Thank you.

(Applause)

Hon. Speaker: Hon. Members get payments out of this. Members can be in a meeting and they sign and then they leave before you conclude. Hon. Omollo Kowii will help us know whether you are in order or you are lying.

Hon. Owii: What I was saying is that I was not part of the recommendation.

Hon. Speaker: Hon. Chief whip!

Hon. Gare: I am still contributing on the point of Order. I don't think it is right for a Hon. Member, the Deputy Majority Leader in this House to stand up and tell us that he wants to exonerate himself from this report which he was part and parcel of. This report was even given to Members yesterday, even if he was not aware, he went through it. Is it in order for a Member to support a report from the initial stage and then later comes and says he wants to exonerate himself from the recommendations of the Report?

(Applause)

Hon. Speaker: Hon. Members, I shall go through the Hansard and find out whether he lied to us or he is saying the truth. So, Hon. Member, will you precede!

Hon. Owii: I decided to exonerate myself...

Hon. Okuku: Point of Order!

Hon. Speaker: Hon. Elisha.

Hon. Okuku: Mr. Speaker, according to the standing Orders, is it in order for a Hon. Member to second as a secondary, because when we started the plenary, after the Mover had laid the report, the seconder of the report was actually Hon. Kowii. So is it in order for him to second what he doesn't know or is not part of?

Hon. Speaker: Hon. Members, let me tell you something; it is just a matter of integrity. But it cannot be a matter

to be put in the Standing Orders because he can support and somewhere at the time of voting, he says No or Yes, how do you capture it? It is possible that even the Mover can at the time of putting the Question respond differently. So, how do you start singling out the voices that that voice is yours but you should have done it this way? It is more of integrity issues that when you stand for something, you stick to it.

Hon. Gare: I am still defiant because one, we had meetings in the Committees, even in the report there was no dissenting opinion from any Member. He was present in part of the meetings. How come now a Member comes and says that he wants to exonerate himself from the report, that he was not part of it? The question is; he is saying he was not part of it but when we go to the Hansard and report writing session, he was there. Even during the submissions he was there.

Hon. Speaker: Thank you, Hon. Chief Whip. Lying has consequences in parliamentary practices, and that is what we shall establish. But in terms of his earlier support and withdrawing the support at the time of debate now does not matter to us. The position of this Assembly on that Motion will be established during voting when we put a Question. Supposing all of you supported and at the time of voting the ayes and the nays you all say the opposite, will that negate your contributions? So let the contributions continue,

we shall put a Question on the matter and even the Mover will have an opportunity to reject it, but it is a matter of integrity.

Hon. Okello: Mr. Speaker, I wanted to add that the essence of Debate on the Floor of this Assembly is to bring out facts as they are. The fact that all of us are here from different backgrounds and points of information, it is possible that given the contributions that come on this Floor, and just as you have said when you were concluding, even the Mover of the Motion himself could be persuaded to think differently from the contribution that the Committee had at the time they were coming to present this information.

I think in the course of Debate, several contributions have come up and I think it is totally wrong to charge the Hon. Member that because he is a committee Member; he has to stick to the recommendations of the Committee as it was. I think the Member is within his rights and I think it is only in churches where we are expected to keep chorusing and doing what the pastors tell us. In a liberal and democratic environment like this, people with integrity and intelligence should be expected to be at liberty to make decisions even if it means shifting from one position to another as long as it is consistent with facts and the laid down rules. I want to support the course that our senior, Hon. Kowii is taking.

Hon. Speaker: Hon. Kowii, you will precede. Hon. Members, you know anytime we come here with a Motion or a report, you don't come in with an intention of withdrawing it. Depending on how the Debate will proceed, you might consider withdrawing it; that is changing your position because many are the times we withdraw them forever. So, Hon. Kowii, will you precede.

Hon. Kowii: Thank you very much, Mr. Speaker, personally I am enjoying the debate because I know exactly what I said. I said that I was exonerating myself from the recommendation which of course was done while I excused myself and I was not with them. Let them go to the Hansard and refer because if I were there, this one would not have been published. No; Never!

(Laughter)

A recommendation of gentlemen and ladies would not have come to this, so as I was bowing, I was only doing so for loyalty.

Hon. Augo: Point of Order!

Hon. Speaker: Yes, Hon. Anastancia!

Hon. Augo: Is it in order for the Committee member to abuse the rest of the Committee members that he is the only excellent person that can give a recommendation?

(Laughter)

Hon. Speaker: Hon. Augo, the Chair didn't get that. Did you attempt or insinuate degrading members of the Committee?

Hon. Owii: I only said that if I were there, I would have raised my voice and there would have been a bit of a difference. The truth is, I would not have been a party to it.

Hon. Speaker: Hon. Kowii, how do you think your colleagues are looking at you when a statement like that is coming from you that they perceive to be demeaning them, Is it in order?

Hon. Owii: I withdraw. It is even a point of Order. I trust and believe that all reports that come to this Committee is a collective responsibility of all Members. Therefore, before a report comes to the Assembly, it is always prudent that each and every member proof reads it so that when it comes to the Assembly, it is owned by all members.

(Applause)

He is misleading the House!

(Applause)

Hon. Speaker: Hon. Members, if you watch any parliament, that happens. There are occasions when members of Parliament sponsoring a motion or report change their minds mid-way during the debate. That happens and I told you it is a matter of integrity; how your colleagues will

judge you in future and how members will want to trust you in future. So will you proceed with this matter? Hon. Kowii, are you done with your contribution?

Hon. Owii: I shall only withdraw. I think my contribution has attracted a lot of interference with the issues that I wanted to an extent that the best I would say is that personally I don't recommend this report.

(Applause)

Hon. Speaker: Yes, Member for South East Alego.

Hon. Osuri: Thank you, Mr. Speaker, Sir. We have had issues with the way the Public Service Board handles recruitments and it is high time they were put to task. We are told in the report that the two accountants were not on payroll before and there is no way they could be seconded to the County Government of Siaya and later after Hon. Andiego's Statement and a series of lobbying, they were shortlisted. This is an issue that should be deeply looked into because if that is the way they handle recruitment, then whenever there is an advertisement in the near future, it will force each and every Hon. Member in this Assembly to lobby for positions for their people.

They talk of merit yet the two applicants were never shortlisted, but after intense lobbying, their names appeared on the list of shortlisted people. So, were they really not qualified? Mr. Speaker, Sir, the Public Service Board has had issues and we should put them to task. Thank you.

Hon. Speaker: Yes, Member for North Sakwa.

Hon. Adida: Mr. Speaker, Sir, this is just a tip of the iceberg on how

recruitments are done in this County and it would be my recommendation to the Governance and Administration Committee that they ought to do an audit of how employment in this County has been done so that we know what has been happening.

(Applause)

This Assembly should be able to stand tall and demand for accountability on the side of the Public Service Board. Thank you, Mr. Speaker, Sir. I say that the report be withdrawn.

(Laughter)

Hon. Speaker: I want to call upon the Mover to reply. I am not in support of the withdrawal of the report. First, as it has been echoed in that report, it has been overtaken by events. Hon. Members, if you look at what this Statement sought, it intended to know why the County Public Service Board did not resolve to suitability assessment of the two officers. They ought to explain why they never resorted to the suitability. Why go round in circles?

The other one is why the two serving officers were not given first priority in the preferred method of recruitment. Just explain.

Yet another clarification was whether the Board observed the issue of secondment as laid out in the County Governments Act. You realize that sometimes when we have an assignment, we go overboard and find ourselves in trouble. If that was your terms of reference, you would not even talk of lack of facts. You would have simply answered this. So, we shall put a vote on it. If you pass it, it will go as the Committee agreed. If you reject it, the Assembly will still

have a position in the matter. That does not reflect on your individual capacities but on your work. May the Mover reply.

Hon. Were: Mr. Speaker, Sir, I am really humbled by the contribution of my colleagues. The experience is in the journey, not the destination; and I would plead with Hon. Members that let us not fall in the trap of unprocedural practices by the County Public Service Board. The rejection of this report will be a kin to throwing the baby with the bath water. As an Assembly, we should not miss the opportunity to miss the opportunity. The opportunity here is for the Assembly to demand the actual audit of all employment vacancies filled and the processes that were instituted...

Hon. Andiego: Point of Order, Mr. Speaker, Sir!

Hon. Speaker: Yes, Hon. Andiego.

Hon. Andiego: Is it in order for the Hon. Chair to deceive the House that the Assembly did not request for the audit yet it should have come from the Committee?

Hon. Speaker: Chair, you are aware that is not part of your mandate. Do you think you are in order to insinuate that the report is leading us to ask the Assembly to request for an audit?

Hon. Were: I can realize that Members are uncomfortable with the recommendation and I would humbly request that we expunge the part that is creating...

(Applause)

Hon. Speaker: Chair, you realize that that is the only recommendation you have. If you withdraw it, what will you replace it with? Mind you, the Committee has not sat and deliberated on it. You also

know how we bring amendments. The rejection of a report is not a slap on your face but maybe a learning opportunity. If put to vote, who knows; maybe it will sail through.

(Laughter)

Hon. Were: The concerns expressed are real but the target has been met. It is now for the Assembly to either accept or reject it, but for me, I stand with the content of the report of the Committee. Thank you.

(Loud consultations)

Hon. Oriaro: Point of order, Mr. Speaker, Sir!

Hon. Speaker: Yes, Hon. Oriaro. Now that he has stuck with the content of the report-

Hon. Oriaro: I only have one concern. One of the duties of the Implementation Committee is to offer oversight on the implementation of reports and the content of that oversight has to remain a tether to recommendations. So, what will the Committee oversight as regards this report? Our Committee will be made more of a prefect and the days of perfecting people are long gone. Nowadays, even students elect their own leaders.

Hon. Speaker: I thought you were rising on a point of order. That's why I gave you another chance. But all the same, we want to put this matter to vote.

(Question put)

(The Hon. Speaker was unable to collect the voices of the 'Ayes' and the 'Nays')

(Laughter)

(Loud consultations)

Hon. Gare: The 'Ayes' have it, Mr. Speaker, Sir!

A Hon. Member: No! The 'Nays' have it!

Hon. Speaker: Hon. Members, the Speaker did not catch your voices.

(Laughter)

We shall repeat, and if we still cannot determine the vote, we shall go for Division.

(Laughter)

When you say, 'Ayes', it means the report has been adopted by the House.

Hon. Members: Yes!

Hon. Speaker: When you say, 'Nay', it means it has been rejected by the House.

Hon. Members: Yes!

Hon. Oriaro: Some Members will amplify their voices.

(Laughter)

(Question put)

(The Hon. Speaker was unable to catch the voices of the 'Ayes' and the 'Nays')

(Laughter)

(Loud consultations)

Hon. Speaker: We shall go for Division now. Would the Division Bell be rung?

(Laughter)

(The Division Bell was rung)

You know, Hon. Members, there is another way through which we can do it

very quickly. From where you sit, you just say 'I support' or 'I reject'.

(Loud consultations)

Hon. Members: Let us vote!

Hon. Speaker: Ok. We shall vote. Ring the Division Bell.

(The Division Bell was rung)

(Loud consultations)

Order! Hon. Members. You will have the option of voting either Yes, No or Abstain. Your names will be called out then you come and vote. Will you proceed!

(The Clerk-at-the-Table read out the names of Hon. Members)

(Members voted)

(The Clerks-at the Table tallied the votes)

(Yes-13)

(No-9)

(Abstain-0)

Hon. Speaker: Hon. Members, you will appreciate the wisdom behind electronic voting. Why we say that is, supposing you stood for something which you wanted to go down on record even 30 years from now, if you follow Elections, maybe in developed worlds like the America; when someone wants to know your position on a matter that happened many years back, say for example those who voted 'No' and they believed in that 'No' as it is today, we cannot capture those views in the future. So that is why parliaments are now resorting to either where you stand and say 'Yes' or 'No' or you do electronic voting.

MOTION**ADJOURNMENT**

Hon. Speaker: Hon. Members, there being no other business, will you be up standing for adjournment. There being no other business, this House stands adjourned until tomorrow, 31st March, 2016 at 2.30pm in the Chambers.

The House rose at 4.10 p.m.

THURSDAY, 31ST MARCH, 2016

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

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

PRAYER**COMMUNICATION FROM THE CHAIR**

Hon. Speaker: Hon. Members, on our Notice paper last week and part of this week, we must have realised that we slotted several activities including Reports from various Committees, one of which was the Selection Committee. We had a discussion with the Selection Committee on the list of Members especially four Members whom we are supposed to allocate in various Committees as agreed.

There was also need to run a sessional Committee list for Privileges Committee which was not the Committee after consultations thought it would be better if we brought that list when we come from recess, which I think is very understandable. I only want to plead with the four Members who are disadvantaged that we apologise for that hic-cup and it will be addressed in the next three weeks as soon as we resume. That will top the list of our agenda together with the review of our standing Orders. We shall ensure that is done at the same time.

We also had issues like the Report on Delegated Legislation which had been slotted for debate but because the Committee did not furnish Members of the House in good time, we resolved in the House Committee that it just be Tabled and Members go through it. There was also Report from Water Committee which

was not yet ready for debate and the chair undertook to have a discussion with that Committee to see how the Report can be prepared when we resume, otherwise that is the position.

The other matter is that Hon. Members you are aware that the Budget and Appropriations Committee has been looking at the amendments we suggested on the physical strategy paper. I am also aware that the very Committee should be meeting soon after we adjourn this session. I remind you to take your time and meet the Committees if you have anything regarding prioritisation of projects in your Ward, because now that we are going on recess they may finalise with the project paper and you don't find an opportunity to look at it. So take your time to engage with that Committee. The Committee is committed to advise them that they need to as soon as possible finish with that document.

The Clerk was supposed to meet us in the afternoon soon after this; I hope he will still have administrative briefs with you and I think issues which will be surrounding payments, issues to do with updates on what is happening, issues including the payment of rent and the issues of taxation. I hope those are the issues he will share with you. I also know that he has challenges and I am told that the system has been law for the last two weeks. It is now that they are trying to make payments for salaries. I hope the

little time you will have together you will share and have a meaningful interaction.
Next Order!

PAPERS

Hon. Speaker: Yes, chair, Select Committee on Delegated Legislation, Justice and Legal Affairs.

Hon. Muhula: Mr. Speaker, Sir, thank you so much this afternoon and I wish to read the Report of the Select Committee on Delegated Legislation, Justice and Legal Affairs, Report on Benchmarking on Senate on the 19th November, 2015 which we did in Nairobi and I wish just to raise it and move it after recesses.

Hon. Speaker: Next Order!

STATEMENT

Hon. Speaker: Yes, Hon. Member for West Ugenya!

Hon. Adera: Thank you Mr. Speaker Sir, I have a statement that I wish to seek. AWARE THAT, the Constitution of Kenya 2010 article 235. (1) Stipulates that:

235. (1) a county government is responsible, within a framework of uniform norms and standards prescribed by an Act of Parliament, for—

- (a) Establishing and abolishing offices in its public service;
 - (b) Appointing persons to hold or act in those offices, and confirming appointments; and
 - (c) Exercising disciplinary control over and removing persons holding or acting in those offices.
- (2) Clause (1) shall not apply to any office or position subject to the Teachers Service Commission.

Mr. Speaker, Sir, CONCERNED THAT; the County Executive has

employed a number of officers in the various departments. However, there has been a public complaint in the manner in which the employment has been done with fear that same does not comply with the Constitutional requirement and other statutes.

At this juncture I wish to request the chairman Committee on Governance and Administration to avail the following:

1. A full list of the staff that were absorbed by the County Government from the defunct local authorities.
2. A full list of the new officers employed by the County Executive from March, 2013 to date.

There is a part that I would like to add and in this case being sated; the names that will be forwarded to this Assembly should include the following:

- I. The name of the employee.
- II. The academic qualifications
- III. Region he/she comes from.

Mr. Speaker Sir, if you may allow so that other part which not captured in my statement?

Hon. Speaker: Omit that because it does not fundamentally alter the outcome obviously.

Hon. Adera: Am much obliged Mr. Speaker thank you.

MOTION

Hon. Speaker: Hon. Majority Leader!

Hon. Otieno: Thank you, Mr. Speaker, Sir, allow me to give one motion of adjournment pursuant to Standing Order

26. (3) Moved on Thursday March, 2016. It is my pleasure to thank all Members of the Assembly for their contribution during the Committees and Plenary sittings even as we proceed for the short recesses of the First part of the sittings of the Fourth session of this Honourable House.

I want to appreciate the manner in which we have conducted the business of this Assembly. During this part quite a number of deals have been fast-tracked for the ascent by the Governor. Motions statements and Reports have also been effectively deliberated upon by this Honourable House. I believe the important solutions made by this House will go along in steering this County to greater heights.

Having said that, allow me to Move a Motion; which is pursuant to Standing Order 26. (3) and 25. (1) This Honourable House adjourns for short recesses from today and commence its sittings on 19th Tuesday, April, 2016 and I wish to call chief Whip Hon. John Gare to second the Motion. Thank you.

(Hon. Gare seconded)

Hon. Speaker: Hon. Members, I think the drafting of that Motion was not in the spirit of adjournment of a session which had already been passed in our calendar, because when the calendar passed that we were to go on recesses, we do not need it unless someone was to bring a Motion wanting to extend. Therefore even that seconding has no place just that people can talk generally then we just adjourn.

Yes, Hon. Deputy Speaker!

Hon. Adera: Thank you, Mr. Speaker, Sir, we have had a lot of transactions in this House and this Assembly has passed several Bills,

Motions or Reports and in deed it's time that we also take a break to enable us meet with our Constituents. Sometimes they complain that they don't see Members of this Assembly and that's wrong, so maybe we need to conduct civic education to the people so as to make them aware of our roles. At least this short break will allow us to interact with them in various locations and forums.

I just wish to urge the Executive that sometime back they brought us some documents when it's too late that we have always read the same and I remember there was a time when they were talking with the persons from the Executive on the issues of passing or dealing with the Committee on Budget and there was a standoff between the Executive and the Assembly. There was a feeling that the Assembly didn't want to pass the supplementary Budget. But our role as an Assembly was to go through it thoroughly before we could deal with it. I remember Members here talking bitterly that we have been blamed and we want to see action being taken and since that time the Executive has gone quiet on the same, so we don't know what they will say next time.

I wish that all the Reports, Bills and Motions that we have passed will be implemented fully by the Executive, otherwise there is no business in us coming here spending our time and resources, labouring so much and yet when the Documents go to the Executive they just sit on them. So, I wish that at this particular time as we interact with our constituents the Executive will also take their time to speed up the issues that affect that they should actually implement; that include the Bursary fund disbursement because when they talked of it, it was like

they wanted the Bill to be passed and they could even disburse the funds the following day.

It is now 2 months and we have not seen any action and if at all they are acting then we have not yet seen any action, so we would urge the Executive to take their work seriously. Otherwise the Assembly is very serious as you can see us and even if we take a break it is a break worth taking because we also need a rest to take time with our families as well as our constituents who elected us to these positions, thank you.

Hon. Speaker: Hon. Muhula!

Hon. Muhula: Thank you, Mr. Speaker, Sir, I also wish to contribute by first thanking the Members for their commitment to the serving the mandate and responsibilities they were given by the people of Siaya County. At least if we were to compare this year with the past 2 years, there has been a tremendous development and improvement in our performance. However, there is still some lack that possibly we never managed to adhere to as far as the promises we undertook when opening the year are concerned.

What I want to remind the Hon. Members is that the commitment delivering of the objectives of these House is mandatory. The more relaxed corner in which we have put the County Executive is the responsibility of this House. Constitution mandates us that we can take the Executive head on, on irresponsibility in line with their activities which is not conforming to the expectation of the people of Siaya County. The issue of Bursary Bill in this House is a draw back and sorry Mr. Speaker Sir, to mention this because as at now to date we have very many students. In fact if I am to

mention just from West Alego, I have to 265 students who have problems of school fees because of laxity of the Executive as well as this House.

We can petition the Government and stop it from doing other things if there are crucial documents and they have not got to this House. I want to inform this House that they have that responsibility. Things like passing the Budget; those are things that we can force the Government to bring legislation that will help us help our people. To date there is social fund that was set aside to help people of old age. It is now 3 years down the line and 2 years later is when we are feeding the Executive that money and it's not doing anything.

Let's get to a point where again we add the Executive money and then by the time of disbursing that money we are told that we cannot disburse it or even access it from the controller of budget because legislation has not been passed. We will not allow and again I want to urge this House, that lets we not be pushed again to pass Bills because the Executive has slept and we are trying to save the face of the Executive.

This House must remain to know that whatever we are passing in this House is for posterity and posterity would mean that we look at the Bills critically such that by the time we are passing these Bills they will never call for immediate Amendments because we rush them over. Issue of Agriculture is what is supposed to be transforming this County which among the 4 pillars within the manifesto of the County Government of Siaya when he was doing his campaigns. Today that is one of the sectors that have failed terribly and no wonder this could be the reasons why the Governor is even afraid to attend this

Assembly when we are opening to tell us on his outlook and overview for the County Government of Siaya.

This time when we will be opening the Assembly because it is the last lap, so we would want the Governor to come so that we can compare his activities versus his achievements. Agriculture is not working well, there many Counties in this region that are asking and when you see at their review the way they display their achievements and what they expect is so tremendous and admirable. No wonder our Governor instead of going for nomination he is asking for a favour because there is a minus in his performance. We need to look at this thing critically and what we need to do is; I want as I started by commending my fellow colleagues Hon. Members here, we are pulling our socks and we are performing very well.

What we need this County to have is that the number one that we missed to the Vihiga County brought back so that Siaya could remain number one. We are moving to that point and I continuously will be a part of this House because I want to be part of the House that succeeded in delivering the endeavours of Siaya the people who wanted a better live beyond 2013 that ---this out.

However, I wish to give my best wishes to fellow Hon. Members that they enjoy their recess but be pragmatic enough and talk to their people at the Wards lest I judge you when you come back, thank you.

Hon. Speaker: Yes, Hon. Walter Okello.

Hon. Okello: Thank you Mr. Speaker Sir, for the opportunity to speak after Senator. By the way it's very difficult speaking after him. I wish to join colleague Members in thanking ourselves for efforts

and endeavours that have been put for the last few months engaging various business of the Assembly. I think in the past few weeks and months this Assembly has really risen to its expectation and expectation of the public in terms of legislation and pronouncing itself on various activities and business it has been presented with.

I think that over time but this Assembly demonstrated its understanding, grip on its business and duties in terms of oversight and legislation. I even think it's in the presentation of the session that we are having today. Based on that, I wish to applaud Members for their dedication and commitment demonstrated in their work. So as we proceed to these well-deserved recesses the number of things that we have to look for as we go out there are many. This recess comes at a time when really picking from where the Deputy Speaker left, much as we are going for a rest and going to connect with our families we must not be deluded that we are going to rest because there is a lot of ground that remains uncovered. The people out there, the members of Siaya County have several expectations that are yet to be met.

Particularly interesting is that we are going on recesses at a time when after these House extensively had deliberated and talked about the need for exclusive Cabinet, a representative Cabinet full of CEC from every part of this County yet we are going on recesses when this has not been done. The people of Ugenya and Siaya County as a whole who felt left out of the Cabinet and still we are going on recesses when this has not yet been adhered to. I want to use this opportunity to again appeal to the people in charge especially the office of the Governor of this County to take this opportunity to source for the best

persons, best brains and best crop of people within the specific sub county as well as within the certain Community so that when we come back we be presented a list that is acceptable and make every citizen of Siaya County feel inclusive.

I am particularly concerned with the manner in which certain amount of money that we passed in this Assembly for youth empowerment was used. In the last financial year a certain allocation of 20 million was passed for the purpose of youth empowerment and we expected that this money would be used to support our youths, women and people with disabilities as Hon. Members of this County. Even as we go for recesses no statement has been made on how the money has been used or how it's intended to be used.

Our youths still remain languishing in poverty as well as hopelessness at a time when the County Government should be standing up for the youths of these youths. As we come back we want the County Government of Siaya through the relevant offices to stand up and address about these monies that were set aside for the purposes of supporting our youths, women and people living with disabilities.

Members have talked about delays in Bursaries even after Bills to facilitate the same have been passed; we wish that County Government of Siaya will use this time to put these things in place including the Report on mechanization of agriculture. We are at a season where people are ploughing and there are very many parts of this County where people are still waiting for tractors as well as subsidised seeds and fertilizers. These are the core elements that the people of Siaya expect us to tackle as their representatives.

We can't have a happy population if we don't have proper channels and systems of putting food on the tables of people of Siaya County. May we do things collectively because I want to remind Members that common sense dictates that we either stand together or fall together? The most important things to the people are access to clean water, availability of food and proper infrastructure. These are elements that must concern all of us both the Executive and the Members of Assembly.

I believe that on our side, we are doing our best to legislate as well as to oversight on these things, but a lot of stabling block comes from the other side. As you know on the last evaluation, stock tacking on what has been done it's important for all us to know that come 2017 which is not very far away. The people of Siaya County will have an opportunity to pass a verdict on what they think our performance has been for both us and the other side and I believe the people of Siaya will be looking for those who have demonstrated understanding of the Constitution as well as Devolution and are able to spear head as well as curry forward the aspiration of people of Siaya.

If it's the office of the Governor is proven not to have demonstrated the same then there are men and women of Siaya County who will be willing to take forward that task and curry forward the dreams of this County. Otherwise thank Hon. Chair for the kind of guidance you have demonstrated and we ask that you continue to show us as we leave this House and go to our pulling stations for the third time. Thank you.

Hon. Speaker: Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Speaker, Sir, the one thing I want to confess over is that the remarks of my colleagues lead by Deputy Speaker Hon. Kadera for Ugenya West, the son to my nice and aunt Hon. Muhula for West Alego and the youthful representative Hon. Walter Okello in generality have underscored what my contribution could have entailed and in deed echo their sentiments by not making a remark over it. But one area that I would want to observe and officially bring to attention of the Members that this short breaks to me would give an ideal opportunity as a Member of this House to go and have a break. We have been burning a lot of domicile triphosphate while doing representative work.

(Laughter)

As Members, it's not easy because we don't even sleep. We do not have time for our enterprises; we don't even have time for our social life because we are always representing our people all through. This is the opportunity where by this break will help me make a huge step towards addressing some of the problems I have been facing.

I have a date with the Director of Public Prosecution, Keriako Tobiko at the Kisumu high court. They have decided to appeal against a trial that I had won at Busia court that was ruled in my favour, so that I be retried and to that extent I am very happy and I shall call upon the Membership of this House, led by you, Hon. Speaker, that on Monday at 9.00 a.m., you walk with me in solidarity because my only crime is supporting my people. I support.

ADJOURNMENT

Hon. Speaker: Is there any other contribution? There being no contribution, should we be upstanding for adjournment.

(All Hon. Members stood up in their places)

Hon. Speaker: Before we adjourn, I have been informed that a list has come from the office of Governor nominating two CECs resubmitting the earlier names and a new name but we will make communication at the right time. We want to interrogate them and see that this House is put at apposition to think that we are rejection happy, so we have to look at the fulfilment of the Law in those appointments before we communicate to you.

Members, there being no other business, this Assembly adjourns until Tuesday, 19th of April, 2016 at 2.30 a.m. in Siaya in our Chamber.

The House rose at 3.08 p.m.

TUESDAY, 19 APRIL, 2016

The House met at the County Assembly Chambers at 2.30.a.m.

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

PRAYER
MOTION

ADOURNMENT

Hon. Otieno: Thank you, Mr. Speaker. Allow me to move a Motion of adjournment, pursuant to Standing Order No. 26(3), moved this afternoon, Tuesday 19th April, 2016. I wish to thank the Hon. Members for resuming after the short recess, however, we might lack quorum this week. This is because the Committee on Implementation is at the Senate, Nairobi on Benchmarking visit, while the Committee on Lands, Housing and Physical Planning and Surveying has a report writing meeting in Kisumu and the Liaison Committee Members and other Members of the Assembly will be attending the Devolution Conference in Meru.

(Question put and agreed to)

Hon. Speaker: Hon. Members, shall we be upstanding for adjournment!

(Hon. Members on their feet)

This will greatly affect the Business of the House due to lack of Quorum. Therefore, having said the above, allow me to move a Motion which is:- THAT pursuant to Standing Order 26(3), this Hon. House adjourns from today and will commence Sitting on Tuesday, 26th April, 2016, in the afternoon. Thank you, Mr. Speaker.

Hon. Speaker: Is there any objection? So, I propose the question which is:-

THAT Pursuant to Standing Order No. 26(3), this Hon. House adjourns from today, the 19th April, 2016 and will commence its Sittings on Tuesday, 26th April, 2016.

I now put the question which is:- THAT Pursuant to Standing Order No. 26(3), this Hon. House adjourns from today, the 19th April, 2016 and will commence its Sittings on Tuesday, 26th April, 2016, next week at 2. 30pm in the Chambers.

Hon. Speaker: This House adjourns until Tuesday next week, the 26th of April, 2016 at 2.30 p.m. in the Chamber.

The House rose at 2.41 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 26TH APRIL, 2016

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

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

PRAYER

(The Speaker and the Clerk-at-the-Table consulted)

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members, I wish to make the following communication. I wish to bring to your attention that the Governor of Siaya County has assented to some of the Bills which we passed in this House and the Bills he has assented to are; The Siaya County Public Participation and Petition Bill, The Siaya County Alcoholic drinks control Bill, Siaya County Public Works Bill, The Siaya County Disaster Management Bill, The Siaya County Early Childhood Education Bill and the Siaya County Bursary Fund Bill and these are the letters sent to us.

There was a letter dated 19th February; “please find attached two copies of the Siaya County Early Childhood Education Bill, 2016 and the Siaya County Bursary Fund Bill, 2016, assented to into law by H.E. the Governor on the 18th February, 2016, in order that you may proceed to publish them as required by law.”

The information I have received is that it is already with the government printers. The other letter is on the Siaya County Public Works Bill, 2015, and the Siaya County Disaster Management Bill, 2015, “The above matter refers, we received from your office the above reference Bills on the 5th April, 2016, for assent by the Governor. We would like to inform you that H.E. the Governor has today, 12th April, 2016 considered the Bills and assented them into law. Find attached two original hard copies of the assented Bills for you information, action and records. We wish to thank you and the entire Assembly for your continued support in undertaking the County’s legislative role with utmost commitment.” Having read that, there is another which I haven’t read.

The other one is a letter dated, 8th of April, 2016, and reference is The Siaya County Public Participation and Petition Bill, 2014 and the Siaya County Alcoholic drinks control Bill, 2015. “The above subject matter refers we received from your office the above reference Bills on the 5th April, 2016, for the Assent by the Governor, we would like to inform you

2016 SIAYA COUNTY ASSEMBLY DEBATES

that H.E. the Governor has today, 7th April, 2016, and assented them into law, find attached to original hard copies of the assented Bills for your information, action and records. We wish to thank you and the entire Assembly for your continued support in undertaking the County's legislative role with utmost commitment.

The other communication is on the Bills that the Governor has reservations about. The Governor has referred back two Bills and this is his memorandum, memorandum of referral on the Siaya County Assembly Service Bill, 2014. "The above reference Bill was first committed to me for assent and I returned it to the Assembly on the 23rd December, 2014 for reconsideration. The Bill was later returned to me again on the 5th of April, 2016 for reconsideration and assent. However, after careful scrutiny and consideration of the Bill, I'm inclined to refer it back to the Assembly pursuant to section 24, 2b of the County Government Act 2012 for reconsideration and for almost similar grounds that I raised in my earlier referral. The last ... of the Bill as passed by the County Assembly potentially occasions additional expenditure to the County Public Funds.

I reiterate that this qualifies the Bill to be money Bill within the meaning of section 21, 4 of the County Government Act, 2012. The procedure for enactment of

such a Bill is stated to be completely different from other ordinary Bills. Further, section 116 of the Public Finance Management Act 2012 makes provision for establishment of any other County funds other than the County Revenue fund established under Article 207 of the Constitution together with section 109 of the PFM Act 2012, for the above reasons I am unable to assent to the Bill passed by the County Assembly and therefore refer it back for consideration pursuant to section 24, 2 and 3 of the County Government Act 2012.

The Bill was drafted by the County Assembly Service Board, I refer it to the board and I think I will ask the Majority Leader to pick it up with the Board and look at those concerns raised by the Governor. However, you are also aware that the law allows us to if we feel that our views must carry the day to proceed and ignore the Governor's reservations after we'll have returned it back. Then memorandum of referral of the Siaya County Wards Development Fund Bill, "The above Bill was first submitted to me for consideration and assent on 28th May, 2015 and I referred it back for consideration by the County Assembly on various grounds on 10th June, 2015.

The Bill was again returned to me for consideration and assent on the 5th April, 2016. From the onset I must

2016 SIAYA COUNTY ASSEMBLY DEBATES

commend the Assembly for substantially considering the recommendations I made on the Bill when it was first submitted to me for consideration. However, I regret to point out that the Bill has been resubmitted still fails to meet certain minimum legal and Constitutional requirements and as such I have to return it pursuant to section 24, 2b of the County Government Act for reconsideration by the Assembly on the following critical basis. Clause 242 establishes the Siaya County Wards Development Fund and proposes to have the funds comprise of an amount not less than 20% of all the ordinary revenue of the Siaya County in every financial year.

Mr. Speaker, I find the above provisions barred for the following two fundamental reasons. One, the first issue lies in the apparent ambiguity in the definition what amounts to ordinary revenue. If all the amounts from ex-checked leases, local collections, conditional grounds or of that combination, the town in question has been not been specifically defined anywhere in the Bill. To remove this ambiguity it is imperative that the ambiguity in the word be cured by specifically defining it. It is not healthy not healthy to impute meaning of the words by way of assumption.

The second issue Mr. Speaker lies with scrutinizing the effect of the proposed

20% of all the ordinary revenue of the County. To unpack this issue I want to assume that the proposition is inclusive of the amounts of the County Government is allocated every financial year by the Commission for Revenue Allocation together with local connections. From this Mr. Speaker, it is instructive to note that looking a tall that amounts in total results to a baseline figure of about Kshs. 6million, 20% of that figure leaves us with Kshs. 1, 200,000,000. Remember that out 6billion development ex-checker accounts for 30% which gives us a figure of Kshs. 1,800,000,000. If I was to assent to this Bill as it is it would mean that the Executive will be left with Kshs. 600,000,000 which would not be sufficient to finance the Executive projects.

I wish to bring to your attention that the budget strategy is moving from micro projects to flagship projects hence making the Kshs. 600,000,000 meager. Further, Mr. Speaker any shortfall in local revenue collection would have a fundamentally adverse effect on operations or maintenance hence negative effect on development. Clause 33 of the Bill proposes to establish in every Ward a Ward Development Fund Committee. For instance, here is Clause 33, 2 which spells out the process of appointing of the Ward Development Fund Committee, it is unconstitutional for elected Members of

2016 SIAYA COUNTY ASSEMBLY DEBATES

the County Assembly to preside over a meeting where the nomination of Members of the Committee is made.

The proposed fund is meant to execute an Executive function therefore at the basic minimum the provision is to respect section 116 of the Public Finance Management Act. It bestows on the County Executive Committee Member the power to administer the fund, the role of nominating Members of the Committee and have them approved by the formal Sitting of Assembly as part of the oversight role. Otherwise, leaving that provision as it is offence section 9, 2 of the County Government Act, 2012 which prohibits Members of the County Assembly from getting directly involved in the Executive functions. Each and every provision of the Bill must of necessity respect Article 185, 34 especially on the roles of the County Assembly in Governance.

It is important for all us to remember that currently there is an informal arrangement where ... at least Kshs 30,000,000 is given to every Ward to undertake other development activities. I wish to recommend that the Assembly considers these issues positively.” There is the other bit which is missing, so that referral to go back to the Committee on Budget and Appropriation. I would want to advice as much as necessary or as possible

the two Bills be considered preferably tomorrow so that in the afternoon, because you will just be debating those areas or Clauses where the Governor has reservation, so we can have them debated so that by tomorrow evening we be done with it. I have consulted and I’m being told that a matter like this need to go to the Committee of the Whole House and that decision is taken back to the Executive. You remember the issue of Ward Development Fund Bill, we wanted in place so that it will inform the budget that we are going to make.

So, it is urgent and we cannot wait any longer. On the County Assembly Service Bill, you remember we are talking about monies which we have already utilized and monies which had been allocated to us as a matter of benefit by SRC. So the Committee and the person that will have this Bills referred to them will also need to perhaps enlighten the Executive or have a Sitting with them and get to know where is not clear. If that is done even tomorrow we are ready to exempt you from the morning Session so that we dispense with it and get into the Committee of the Whole House in the afternoon.

Hon. Members I will recommend strongly that because when this Bill came from the Executive there was the in-put from the Committee on Delegated, legislation justice and legal affairs consider having them during the review of these reservations. Having said that I want

2016 SIAYA COUNTY ASSEMBLY DEBATES

to communicate to you that we have had this problem; misunderstanding in taxation, whether or not it is right to have our subsistence taxed and we thought it was wise to invite KRA officials to come so that we have a discussion with them so as soon as we finish our afternoon session, kindly stay behind so that we engage them on this matter. Finally, Hon. Members we remember the four Committees, Rules and Privileges, Budget and Appropriation and Appropriation were supposed to have their terms end on the 10th October.

On consultations, I have been told that it doesn't have to be exactly on the dot and if it is for the convenience of the House we can make it as convenient as possible. Therefore I direct the selection Committee move with speed to reconstitute those Committees bearing in mind that we are going to have also Standing Orders reviewed which might maybe create other Committees or rearrange other Committees. In other words the Committee on Selection to make sure that latest by next week Thursday, we will have all that done after reviewing or adopting our reviewed Standing Orders. We must be done with this business next week without fail, on the same breath, the Committee on Health services; I think time is now up. There is a vacancy that fell and you are given up to next week which will be on 5th Thursday, the latest that you need

to do elections of the Chairperson and have that matter concluded. Thank you. Next Order!

PAPERS

REVIEWED COUNTY ASSEMBLY STANDING ORDERS

Hon. Adera: Mr. Speaker, Sir, allow me to lay the reviewed County Assembly Standing Orders on the Table today, Monday 26th April, 2016.

Hon. Speaker: Hon. Members having been part and parcel of the review process, we urge you to go through that document so that tomorrow we consider it and adopt it is also delaying the Committee on Selection from reconstituting Committees accordingly. It is a document that we really have to adopt because even if we have challenges here and there the same Standing Orders will provide for further amendment procedures either by way of the Committee initiating i.e. the Committee on Procedures and Rules or Members. If you have reservations in any sections share with us as early as before we begin the section in writing. Next Order!

Hon. Otieno: Thank you, Mr. Speaker, Sir, allow me to lay on the Table of the House the County Assembly calendar regular session for the Fourth Session of the First Assembly.

2016 SIAYA COUNTY ASSEMBLY DEBATES**NOTICES OF MOTION**

CALENDAR OF THE ASSEMBLY

REGULAR SESSION OF THE FIRST ASSEMBLY

Hon. Otieno: Mr. Speaker, Sir,
allow me to move a Notice of Motion:-

THAT pursuant to Standing Order no.26 this House adopts the calendar of the Assembly regular session of the first Assembly laid on the Table of the House today, 26th Tuesday, 2016.

MOTION

CALENDAR OF THE ASSEMBLY

REGULAR SESSION OF THE FIRST ASSEMBLY

Hon. Otieno: Thank you again,
Mr. Speaker, Sir, I am moving a Motion:-

THAT pursuant to Standing Order 26, this House adopts the calendar of the Assembly regular session of the first Assembly laid on the Table the House today, 26th Tuesday, 2016. I hope the calendar before the Members as I read. As I proceed, it is notified for the general information that pursuant to the provisions of Standing Order 26 of the County Assembly of Siaya by resolution made on 10th Thursday, February, 2016, the Assembly approved its calendar regular session for 2016 as set out in the schedule. (Attach Table) as set out in the Schedule:

2016 SIAYA COUNTY ASSEMBLY DEBATES
Fourth Session: Part I**Sitting Days**

Tuesday, 9th February – Thursday, 31st March, 2016

Short Recess:

Friday, 1st April - Monday, 18th April, 2016

Sitting Days

Tuesday, 19th April – Thursday, 5th May, 2016

Long Recess:

Friday, 6th May - Monday, 6th June, 2016

Tuesdays - Afternoon
Wednesdays - Morning and afternoon
Thursdays - Afternoon

Tuesdays - Afternoon
Wednesdays - Morning and afternoon
Thursdays - Afternoon

Tuesdays - Afternoon
Wednesdays - Morning and afternoon
Thursdays - Afternoon

Fourth Session: Part II**Sitting Days**

Tuesday, 7th June – Thursday, 7th July, 2016

Short Recess:

Friday, 8th July - Monday, 18th July, 2016

Sitting Days

Tuesday, 19th July – Thursday, 1st September, 2016

Long Recess:

Friday, 2nd September - Monday, 3rd October, 2016

Tuesdays - Afternoon
Wednesdays - Morning and afternoon
Thursdays - Afternoon

Tuesdays - Afternoon
Wednesdays - Morning and afternoon
Thursdays - Afternoon

Fourth Session: Part III**Sitting Days**

Tuesday, 4th October – Thursday, 27th October, 2016

Short Recess:

Friday, 28th October - Monday, 7th November, 2016

Sitting Days

Tuesday, 8th November – Thursday, 1st December, 2016

Long Recess:

Friday, 2nd December, 2016 - Monday, 13th February, 2017

Tuesdays - Afternoon
Wednesdays - Morning and afternoon
Thursdays - Afternoon

Mr. Speaker, Sir, the Assembly shall sit from 2.30 p.m. to 6.30 p.m. pursuant to Standing Order 28 of the County Assembly Standing Orders.

Special Sittings shall be notified through Kenya Gazette notices as per the County Assembly Standing Orders.

Mr. Speaker, Sir, I now ask Hon. Omollo K'owii to second.

Hon. Owii: Seconded.

(Question, that the House adopts the Calendar of the Assembly Regular Sessions, proposed)

(Question, that the House adopts the Calendar of the Assembly Regular Sessions, put and agreed to)

REQUEST TO MOVE MOTION FOR ADJOURNMENT

(Hon. Adera stood up in his place)

Hon. Speaker: Hon. Members, earlier on I was approached by a Member of the House that there is a matter which Members want to discuss. I want to allow the Member, Hon. K'adera to address the issue.

Hon. Adera: Thank you, Mr. Speaker, Sir. I rise on Standing Order No. 30 and I wish to move a Motion that this Assembly adjourns its business of the day in order to discuss a matter of public and national interest.

Mr. Speaker, Sir, yesterday, 25th April, 2016, this country witnessed something that has never been witnessed anywhere in the world. We are here because of our political parties and yesterday we witnessed our ODM party leader and other CORD leaders who went to demand for the reconstitution of the

IEBC being teargased and treated in a manner that does not befit the stature of leaders who have fought hard for the democracy this nation enjoys.

Mr. Speaker, Sir, if this House allows that we debate this matter, I will really appreciate. Before I proceed, I wish to call upon the Leader of Majority Party, Hon. Otieno to second.

Hon. Otieno: Mr. Speaker, Sir, I rise to second.

Hon. Speaker: Hon. Members, is there any objection before I propose the question?

Hon. Andiego: There is no objection, Mr. Speaker, Sir!

Hon. Speaker: Hon. Members, as much as somebody would argue that this is not a matter of county importance, it is said that injustice anywhere is a threat to justice everywhere. I therefore allow that Members can debate the issue within thirty minutes. Yes, Hon. Adera.

Hon. Adera: Mr. Speaker, Sir, the Constitution provides for the right to picket, demonstrate and express our feelings. Yesterday, the CORD fraternity was within their right to demonstrate and air their views against the IEBC. What they were saying is that the IEBC as currently constituted, cannot be fair and impartial in discharging their duty. They cannot preside over free and fair elections in this country. When the CORD team went to pronounce their dissatisfaction with the IEBC team at the Anniversary Towers, the police repulsed them with tear gas. We saw our leader, the Former Prime Minister of the Republic of Kenya, the Rt. Hon. Raila Amollo Odinga being treated in a manner that portrayed him as a goon and somebody who does not deserve any respect at all.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Mr. Speaker, Sir, we know how much the former Prime Minister has fought for this country and even for devolution that we are enjoying today. He is the one who has fought for the democratic space that we are currently enjoying. We condemn the incident in the strongest terms possible and urge the government to listen to the grievances of the CORD coalition and Kenyans in general.

Mr. Speaker, Sir, even those of us seated here have lost faith in the IEBC and we doubt if they can really manage credible elections in this country. 2017 is just around the corner and if the government intends to reconstitute the commission, it should move with speed. It won't be right or proper for the government to bring in a new commission days to the 2017 general elections. That commission will not have time to put things in order. There are pending issues like the procurement of BVR kits that should be fast-tracked.

Mr. Speaker, Sir, I would also like to urge my colleagues that as a county, we should also organise for a demonstration in Siaya. The government should know that this is not only a Nairobi affair but a countrywide thing. Demonstrations in Siaya, Kisumu and other counties will send a strong signal to the government that Kenyans have lost trust in the electoral commission as currently constituted. Even us as MCAs are not comfortable with the way they are managing the affairs of this country.

Mr. Speaker, Sir, I know that we only have thirty minutes to debate on this matter and therefore I wouldn't want to chew other Hon. Members time; but as I take my seat, I would wish to urge my colleagues to give the Motion support and

if we can agree, then we can also organise for a date and time and do our demonstration.. On that note, I wish to also congratulate our colleague, Hon. Fred Ouda who was arrested yesterday doing the same in Kisumu.

(Applause)

Thank you.

Hon. Speaker: Hon. Members, the matter before the Floor is not a Motion on when we will have a demonstration, it is a ventilating moment for us as Kenyans to also share our feelings on what happened to the political leadership in this country. Yes, Hon. Apiyo Apiyo.

Hon. Apiyo: Mr. Speaker, Sir, I want to support the Motion by our Deputy Speaker. The actions of the Kenya police must be condemned. We are in the 21st Century and they are behaving as if we are in the 19th Century. The police dealt with the leader of the opposition like a school child and as Hon. Members, we cannot sit pretty and watch our leader being treated like that.

Mr. Speaker, Sir, what I watched is something that can even create more chaos come 2017. It is like they are trying to tell Kenyans to be ready for war which we don't want. We are not cowards and we are not going to be cowed down. Thank you!

Hon. Aneme: Mr. Speaker, Sir, I also wanted to add my voice---

Hon. Speaker: Your microphone seems to be having a problem. Kindly move to the next microphone.

Hon. Aneme: Are you getting me?

Hon. Speaker: Kindly move to the next one.

(Hon. Aneme moved to another microphone)

Hon. Aneme: Mr. Speaker, Sir, I also want to condemn the demagoguery that I saw yesterday. It is very painful for a Luo to see Raila crying because of demagoguery being orchestrated by the police. We can't sit back and watch Raila weeping and our colleague Fred Ouda being beaten by police in Kisumu. This Assembly should stand with the two leaders. We should also go and confront the IEBC offices here in Siaya. If that is the way they want us to move, then it is ok.

Look at how the Okoa Kenya thing was mutilated! How they handled Raila is a confirmation of how they are going to handle the next elections. This was just to test the waters; and because they have cocked their guns, they should also see us armed to the teeth. We should also mobilize the people of Siaya as a whole to join us in confronting these offices in Bondo and Siaya. I would also wish to be chained like my brother Ouda. They started with demagoguery and we can't leave ours back. Colleagues, let us come out, armed to the teeth and also confront these people. Thank you.

Hon. Ngure: Mr. Speaker, Sir, what we saw yesterday is an indication that the lack of confidence on the IEBC is at its peak and nothing will stop the commission from being disbanded. It is like the government is prepared at costs to ensure that the commission continues being in office. We have our leader at the top and if the government cannot listen to what we want it to hear, if the government cannot correct what we want corrected, if the government cannot hear what our leader is saying, then who do we have? If they can be teargased and treated so badly like criminals then who will fight for us?

Mr. Speaker, Sir, the issue of IEBC is something being discussed by Kenyans from all walks of life. The other day, COTU Secretary General Francis Atwoli told us that this team must be disbanded. When Atwoli speaks, all Kenyan workers are speaking including those in Siaya! We cannot be gagged forever! We were gagged in the past, threatened in the past, scared in the past but we can't allow it anymore. We could not say what the government did not want to hear and we still cannot do that now! Do we have a political future, are we moving backwards?

Mr. Speaker, Sir, it is so annoying; it is so terrifying! Maybe women cannot fight as hard as men, but when you see strong men being teargased so that they cannot say what we want them to say, then where are we? Even the church is in support of the disbandment of the current commission. What is wrong with having a new commission? What is in this current commission that it must stay in office?

I heard Hon. Sakaja say the other day that they also want to hear what it is with the current IEBC with a view to changing what may be wrong. How can things be changed if our people cannot be listened to? This IEBC issue has gone too far and it has to stop now. I am glad that our party leader is at the forefront. The Rt. Hon. Raila Odinga has been teargased many times and that has never stopped him from fighting for Kenyans.

We have seen him suffer and he continues to suffer on our behalf. As Members, it is high time we rose to the occasion and stood to be in solidarity our leaders. We cannot be stopped from airing our views. We suffered in the past, our rights were trampled on in the past and we were even denied the right to associate with other people. You could not visit

2016 SIAYA COUNTY ASSEMBLY DEBATES

certain houses because they were declared outcasts. I thought this sort of things ended and we are now in a free country! People are still being beaten and teargased. Where are we heading to as a nation?

What is in this IEBC that it must still be there? If they used it last time and people complained, it would have been so easy to disband it, bring another commission and use it in another way. It's quite painful. Thank you, Mr. Speaker, Sir.

Hon. Andiego: Mr. Speaker, Sir--- Hon. Nguire, your microphone, please.

Hon. Speaker: Hon. Nguire, kindly switch off your microphone.

(Hon. Nguire switched off her microphone)

Hon. Andiego: Mr. Speaker, Sir, it is sad for a normal human being who knows who Raila Odinga is, to teargas him in broad daylight. I felt bad. I wished I was the one to be teargased on his behalf. I wished I could fly to Nairobi and be in front so that the teargas could reach me before him. I wept, watching my leader being teargased by these people; I believe and know that they have never fought for their community or even for their parents.

Raila himself, like many of us, budget for our children, parents and other people and yet these people go out teargasing Raila when everything is done for them. They don't know the price of unga, sugar; they don't even know that school fees is being paid because everything is given to them. The person who they are fighting is the one who stands for that local man, that person at home like the farmers and fishermen who don't know whether they will have lunch or breakfast. Some of them do not even know that there are 3 meals in a day but

the person who is fighting for such a person is being teargased just because he wants justice for his country.

It is sad, my brothers but at times we must say enough is enough! Enough becomes enough when we stand up and talk the same language with our leaders. He has fought for us. I am happy with our Member, Hon. Ouda who the other time, for the sake of Raila, accepted to be seen worldwide naked while fighting for his leader. Today, I don't know whether he spent at his house because he was found very early in the morning, chained in front of IEBC gate.

When Raila does it, we should also follow suit. If we cannot go to Nairobi, let's do it in Siaya so that the whole world will see that we are also with him. Ladies and gentlemen, it is now our turn, some of us have not even seen the doors of prison, Raila has seen it. It is now time we saw and felt prison life. It is sad that when Raila was fighting for us in Nairobi, some of our MPs, who we believe were supposed to be with him there were busy doing nothing in a constituency down here campaigning for a seat which has never been declared vacant.

I believe that the President and the Deputy President do not know what living without food is. They may have slept without food just because what is cooked is not their choice on that day. Many of us live without knowing what tomorrow holds, as we live today we shall attest to the fact that many of us are not living the life that they used to live and this is what Raila is doing. If it is money Raila has it. If it is having a lot of food and living well he can do it even for 20- 100 years, but this is the man who goes out to fight and to be teargased while some of us are sleeping at home.

2016 SIAYA COUNTY ASSEMBLY DEBATES

This is a good Motion that has been brought up by our Deputy Speaker. We should join hands and work with him, let us also be seen as Siaya, that we are behind our leader and indeed we are behind Raila Amollo Odinga. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Yes, Hon. K'Awuor.

Hon. Awuor: Thank you, Mr. Speaker, Sir; I want to start by thanking our Deputy Speaker, the Hon. Kadera for this very important motion. I watched a video of what happened yesterday and my eyes were shedding tears, I could not believe it. Those who were employed very recently do not know that these police officers who are reckless are following orders from above. We need to tell the President and his Deputy that Kenya is not Uganda, we are in Kenya and we have a new Constitution which I think some of them are not aware.

We should take this matter very seriously. I participated in the Constitution making some times back as a young leader in this country and it is so bad when you see the Deputy President talking recklessly like a dictator.

Let us act now! Who are these people? Are they really leaders? We told Moi off and Moi is no longer there and we have a new Constitution which we fought for which should protect us. The CORD leaders had a cause. They wanted to share their views with IEBC and the information was given to them before the leaders went there. It is ironical to note that when the Jubilee team lost in Malindi, the Hon. Aden Duale said that IEBC should be disbanded. He said it! And when it comes now that the CORD leaders want to share with IEBC, the issues of OKOA Kenya, our leaders are teargased like children.

Those are the things we witnessed as children in the 1990's, with the dictatorship that we had then.

I want to request my colleague and friend Hon. Otare to host us in Ahindi Gardens and we bring all our people even tomorrow and we show Kenya that this is Siaya, the home of Raila Odinga, Obama and our heroes who fought for this country to be liberated from the yokes of colonialists.

I want to urge my colleagues that this is now the time that we need to come out together to fight. Let's us represent our people well by fighting for what is right. I support the Motion and I urge Members not to sleep, let us wake up and face the realities that are there. Thank you, Mr. Speaker, Sir.

Hon. Abayo: Thank you, Mr. Speaker, Sir, I rise to join my colleagues and to appreciate Hon. K'adera for this Motion. Indeed my colleagues have mentioned and all of us have witnessed that all that is happening is key, somebody says history will judge us harshly.

In this country we know that we have had struggles, struggles for the first liberation, the second liberation, and somebody would term this as the third liberation. We have seen the gains that have come to date. We have seen the enactment of the Constitution of Kenya 2010. These democratic gains that we have had, some people want to put this under the table and I think all of us agree that we need to rise to the occasion and say, this has to stop!

The CORD brigade and the people of Kenya led by Hon Raila Odinga took the path and it was found that we were to go through the OKOA Kenya initiative to dialogue and to sort out issues and one of the key issues in that particular process

was in forming IEBC. For reasons that all of us know, the partisanship that they have demonstrated in handling the issues of elections. We have seen issues of post-election violence and we all pray that we should not go that direction. The evidence of the same happening again is in the form of corrupt practices. The chicken gate issue is known; let's say you want to carry forward with the former agenda, of an independent commission which is subsidiary to the constitution, where have we gone wrong that today we are being teargased.

You saw the government scuttling the OKOA Kenya initiative. Now if we stop that direction we are picking on an option and you can see the force with which this is resisted. Today we are seated here because of the benefits of devolution and all Members are saying the Right Hon. Raila Odinga is the father of devolution. We have seen benefits roll down to the people. We want to see that process sustained but some people in this particular country are saying No, this will have to continue. The question that begs an answer is that where did we go wrong? Even within the law.

The freedom of expression is entrenched in the Constitution, that we can have peaceful demonstrations, then why the force that we see around. We thank the principles of CORD taking the lead with our other MP's we are proud of them for the good work.

In Article 1 of the Constitution, the sovereign power is to the people and also our right to express ourselves either directly or indirectly and interacting through the elected leaders. We saw the people take their sovereign authority to exercise it directly and therefore the process is within the law. It is found in

Article 1 of the constitution, as a representative of West Gem, and as leaders, that you would want to be part of this county we want to join the rest of Kenyans in saying that this level of impunity must stop and that we will rise to the occasion and stand to be counted. We as Members have to be on the right side of the law. History as I have said, if it is to go on record that we will come and remain steadfast to say what is wrong and we will condemn such practices.

I want to join my colleagues to say that whatever the actions whatever the force that will come, we will face it through what is provided for within our mandate. We shall pursue with all the dignity, force and the direction we want to take. I want to believe all of us moving forward will be joining the others because all of us would want to make a contribution.

Hon. Speaker: Yes, Hon. Hildah.

Hon. Achieng: Thank you, Mr. Speaker, Sir, what we are talking about now is very sad. Last night I was not in the sitting room but my children were there crying that I must come; when I came back to the sitting room what I saw was a very sad state of affairs. I want to thank our Members who have spoken now saying that let us take action. Let the leaders tell us what to do if it is going to Nairobi on foot or by bus, we will go!

(Applause)

Even us men, lazima tuwaonyeshe hata sisi ni wanaume! Wanatudharau sana hawa wakikuyu. Mimi nilizaliwa Ukuyuni, na nikienda supermarket kununua vitu asubui nifanye nayo business yangu, walikua wananiuliza ati na wewe wajaluo wanalala na wewe unafanya nini hapaa.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Let's act, let's go home and plan what we can do tomorrow.

(Applause)

(Applause)

Hon. Speaker: Hon. Members, that is Hon. Hildah Otieno, you realize that that is her maiden speech.

(Laughter)

That is why the Speaker did not want to interrupt but for future she should be informed that mentioning Kikuyus and Luos is out of Order and also mixing languages is out of Order. You should stick to one, of course English or Kiswahili.

Yes, Hon. Kowii.

Hon. Owii: Thank you, Mr. Speaker, Sir, it is a painful time in the history of this nation to discuss issues we dealt with in the past and we thought we would never see again. It is very painful to see what we saw yesterday happening to our leaders, personally I see that what my colleagues have been saying could have been justified if at all we come out and do exactly what Hon. Hilda was saying. Let them all know that Siaya is actually the place where Hon. Raila comes from and we should actually do our things differently. Let it not appear that we are doing it because other people are doing it. Let us make the whole nation know that it is actually wrong, when the worst comes to the worst that is when we will know that when it comes to.

What we saw yesterday was sad and we cannot entertain such things in political history. Why do they do that? Were there no other ways of doing it? Peaceful demonstration which of course is enshrined in the Constitution, how do they stop it? This is so painful because we attack the people's president.

It is just a question of distance; some of us could have died. To demonstrate this, we have some other things to do, it can be tomorrow, tomorrow but one but it should not be any other time later than that time. Why am I saying this? Why must you be here while Hon. Ouda is actually rotting in jail, simply because of these hopeless characters that want to take us to the dark days of President Kenyatta and President Moi where dictatorship was the order of the day. We cannot allow this one to happen.

Some of us were ready like yesterday to go to jail, I think I am one of them, naturally that is the way I was born. If you stand tomorrow and even open a forum here in Ahindi we will be ready actually to be picked by those policemen so that we go and rot in prison and we release or we give our people freedom that they have fought for. We have to team up with our CORD leadership in this, we have to! It is a condition and if we don't do it now then it is never.

History will judge us harshly. Where were we when they were doing all these things? Maybe we cannot go to Nairobi but anything that will be said in Siaya County Assembly that will change even the face of Kenya. How I wish we start tomorrow to do a demo in Siaya. Personally filth is filth no matter the package even if we wrap it with what we call happy birthday or whatever, it is still filth.

We cannot allow His Excellency the President and his Deputy to take this country as if it is the property of one community. Kenya is for all Kenyans and not just two communities and I think the

2016 SIAYA COUNTY ASSEMBLY DEBATES

time has come we are moving in that direction because the price of freedom is some of these things that we see. You can be teargassed as you walk towards freedom. You can never get freedom if you are seated like we are here.

Some people like Hon. Orengo, we have seen what has happened to him. Somebody can talk about him but they have never actually gone in that direction. You can even talk and even abuse him but you will never actually move the direction that he has moved to save the face of this nation. You will never be like Raila Odinga; you can only try to compare yourself. Not even the president of this nation, Uhuru Kenyatta. Never!

Luck came because even all the churches in this nation in their unity have decided to join us telling all Kenyans that IEBC must be disbanded so we are now a big team. The only person we might request to join us is God and Jesus Christ and then we are done.

It is like these people are losing in their own game time has come and that one can give us a small smile some us should smile because we are walking towards freedom of this nation. When the same Raila Odinga will take the leadership of this nation, these are some of the things that we must undergo if he wants to take the leadership of this nation. You are seated there we know you. We know the work that you have done for this nation. Some of us have never gone in that direction. You know what you have done, personally you know. You were a victim of these kinds of things that we are now seeing.

I want to say that if it cannot be tomorrow then Thursday we should have a big rally in Siaya and each and every representative in this House should team

up with us, at least a bus we can manage to bring our people to Siaya. We want to talk to the whole nation when our people are at Ahindi garden or at the stadium and tell them time is up and we are now ready to face the government of Uhuru Kenyatta. This is the best way of bringing down a government that is failing like the Government of Uhuru Kenyatta.

I will always live to appreciate Hon. Ouda for the courage he demonstrates, though at times we take it as a light joke today we saw that one man with the name Hon. Ouda decided to do that I never imagined that I would do. He decided to be chained not because Raila was teargassed, but to be chained because he thought that was the best way to bring a stop to this kind of thing that is now happening.

I don't want to say much because I thought we would have our big brothers taking lead, more particularly from Siaya. I don't know why they decided to resign from that seat because they should take lead, they are our big brothers. What is the fear? Let them take lead, you cannot lead from behind, let them take lead if there is somebody that can take that message home, please do and then we follow them.

I am saying that we are out here to fight impunity in this Country and we all want to be part of the history of this Nation that whatever has been done here is bad and is in bad taste for the whole Nation. I have firm belief that this is how we are going to walk towards the freedom that Raila Amollo Odinga has fought for, for a very long time. Let us join hands, call a rally and a very big press conference as early as tomorrow as the leadership of this particular House and tell them that this is how we feel as Siaya County Assembly. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Hon. Sela! Hon. Members, we are limited to 4 Members. After Hon. Sela, I will introduce the other 4 Members who are upstanding and then the political leadership will take the direction it deems fit.

Hon. Okwako: Thank you, Mr. Speaker, Sir, for giving me the chance. This is the life of a politician and it entails Life, Death, Poverty or Riches, but again someone can't kill all of us. Therefore let us go out there and talk to them face to face. If you are afraid, just sit down because I will fight it out and it is something evident in the manner that I fought along with people like Orengo, Obote and even Jaramogi Odinga who stayed in jail for one week.

I am a woman but I can say authoritatively that Hon. Ouda is a better man than some of you here because he has been in jail just like Odinga. When Hon. Ouda was fighting, most of us were at home sleeping. I don't want to say much but if there is something better that we can do other than I have just said then I am ready to hear it and let us stop fearing to take action. Thank you.

(Applause)

Hon. Were: Thank you Mr. Speaker, Sir, for this opportunity. Yesterday lights went out in Kenya and the whole of the Country was in darkness, but I want to say this: freedom is not a gift from the oppressor it's our right that the oppressed have to fight for. I want to commend the Right Hon. Prime Minister Raila Amollo Odinga for the courage and statesmanship to reclaim democracy as well as freedom from the oppressive Jubilee Government.

During the struggle for liberation of South Africa from the oppressive apartheid regime, the late Nelson Mandela had this to say 8 years ago; *that it is better to live for a day fighting for the rights and freedom than to go on your knees begging for 100 years.* This is true. We want to say that we are with our party leader, the Prime Minister Raila Amollo Odinga together in this freedom struggle. Thank you.

Hon. Speaker: Hon. Agoko.

Hon. Agoko: Thank you, Mr. Speaker, Sir, I would wish to express my support for this and also thank the Deputy Speaker for bringing this to us. I want to say that the Country as well as Kenyans are in tragedy where by the implementers of what we have fought for are not believers of the same.

We are in a tragedy where as we talk, Kenya is being seen to have gone back 20 years where it was before. We are in a position where even our leaders who are in the top are not believers of democracy and so Kenya is being led by people who are soft. The barbaric treatment of our political leaders is a shame Kenyans, our children and to all of us because the whole world watched it as it happened.

Today in the morning as I was leaving for work to report to this Assembly my kid asked me where I was going given that I was not in my usual suite attire and I had to tell him/ her that today was a morning day, not because someone has died but due to the poor and rotten state of the Nation as democracy is being taken to the dungeon.

We are mourning because democracy is under threat as well as not being given room to prosper, Rev. Peter who is also the canon of the NCCK

brought all the leaders together and spoke with one voice that the IEBC should be sent packing Home. They were asked to leave the office honourably before any blood spill which if we remember yesterday there were already some blood spill.

People who were demonstrating expressing their displeasure peacefully and friendly were attacked in very inhuman manner. I want to agree with my brothers and sisters that no amount of intimidation should segregate our conscience or even draw us back to where we have come from. I want to call upon my fellow Hon. Members that we do not need to wait until a day after tomorrow but instead act tomorrow.

It should not be a demonstration just from Siaya to the stadium but we should march from here to Nairobi so as to send a strong message that we are serious. We are tired and we are not going to let this go unchallenged, we shall not allow them rewrite the History of this Nation. Everybody is tired be it a woman, child, an old man and even the youth have lost hope in this administration. I heard someone say that this is a problem for the Luos, I want to say that it's not only about Lou's this concerns all Kenyans.

The National Government still holds about 85% of the budget and only giving 15% to the Counties which is not enough. Therefore when we talk about Okoa Kenya it's not only for Raila but it is also our duty to ensure that the revisions of the earlier terms are corrected. Kenya has come from far that is from a single party to multi party state, but given that the leadership is a product of single party they still think that they can run this Country they used to be run. Raila Amollo Odinga has done a lot to this Nation and

what the current leadership is enjoying is due to the struggle of Raila to this Country. Yesterday there could have been very disastrous if there could have been chaos in any other parts of the Country because all the police officers were deployed at the IEBCs offices to man the gate. This was utmost wastage and misuse of power as well as finances.

I propose that we call the press so that we demand that the Jubilee Government apologises not only to Kenyans but also to our party leader for the mishandling that we witnessed yesterday. There has been a lot of misappropriation of funds by this Government starting from NYS, Eurobond and many others that have not yet been accounted for. This is the same money being used to mistreat our people and we will not just sit and watch, therefore demand an apology from the Jubilee Government. Thank you.

Hon. Speaker: Hon. Ombee, then Hon. James Munda will finish later.

Hon. Ombee: Asante sana Bwana Speaker, leo wacha nizungumuze kwa Kiswahili ninapounga mswada huu. Hapa duniani tuko na baba mmoja tunayemwita Mungu lakini vile vile hapa Kenya pia tu na baba wetu tunayemwita Raila baba. Raila Odinga sio tu baba ya Majimbo, Sheria, utetezi bali pia ni baba wa raisi wetu Uhuru Kenyatta.

Kama si Raila hatungejua kwamba Atur Margarian walikuwa wameingia humu nchini, hatungejua kuhusu Eurobond na hata Moi hangewacha uongozi na vile vile Kibaki pia hangekuwa raisi wa Jamhuri hii yetu ya Kenya. Niko na hasira sana, kwa hivyo naona badala ya kupoteza wakati hapa kesho tukusanye watu wote asubuhi tuandamane kuelekea kwa afisi za

IEBC. Mimi naunga huu Mswada na ningependa kusema kwamba wakati ni huu na kama si sasa ni sasa hivi. Nitakuwa mstari wa mbele kuelekea huko na kama kuna wale ambao wana uoga wao wabaki nyumbani kwa sababu mimi simogopi mtu yeyote. Asante sana.

Hon. Speaker: Hon. Munda.

Hon. Munda: Thank you Mr. Speaker, Sir, I would wish to add my voice on this important issue. First I want to thank the Deputy Speaker Hon. Kadera for bringing this up, it is a very crucial issue and we have to debate over it as we are doing now. It was really hearting to see Hon. Amollo Odinga the way he was treated yesterday. It was so barbaric and inhumane that I shed a tear, even though there being a civil society and church outcry they still manhandle our party leader in the manner they did.

We know very well that when the church speaks its God's voice that is speaking. So it clear that this people do not respect God neither do they have respect for human dignity even though they pretend to hold prayers but their acts to not resemble that of the church. Lastly, I want to applaud Hon. Ouda for what he did it was a very courageous move. Thank you.

Hon. Speaker: Hon. Anastancia Augo and then followed by the Hon. Majority leader.

Hon. Augo: Thank you Mr. Speaker, Sir, for giving me this opportunity. First of all I would like to thank my colleagues for having a discussion on what took place yesterday. It's very annoying and I want to tell my fellow colleagues that we as women of Siaya County are not happy with what happened to our Prime Minister who is still the Prime Minister and there will be no any other in Kenya as long as he is alive.

It was very disturbing as you look at the pictures and we could not believe that the Prime Minister could be teargassed. Just as others have said, if we are going to demonstrate tomorrow let be so and I don't want us going to Aindi gardens first. We first match to IEBC offices then after that is when we can go to Aindi gardens. I want to say that we will not leave any stone unturned because the officers must go home from top to bottom.

It is very annoying that some of us in Siaya here were busy campaigning while others were together with the father of the Nation seriously fighting for our liberty. This was not a good show, therefore I urge fellow women to stand up and be counted and not only men for the occasion of tomorrow. I would also urge fellow colleagues to come out and speak in one accord so that Hon. Fred Ouda can be released such that we can have here for tomorrow's demonstration. Thank you.

Hon. Otieno: Thank you, Mr. Speaker, Sir. First, I want to thank the Deputy Speaker for having sponsored this very important Motion this afternoon. It is very painful that despite all that Prime Minister has done this Government has turned a blind eye. The Jubilee Government is retuning this Country back into the old dark ages of KANU and therefore I must urge that we stand firm and say no to this. Just as it has been seen it has been a chorus over a year that the IEBC must be disbanded and reconstituted and I have heard my fellow colleagues also support the same.

To see yesterday the father of Devolution, the man who has made us have the opportunity to be here today being manhandled the way we saw before the full glare of the camera as well as the

2016 SIAYA COUNTY ASSEMBLY DEBATES

whole world is very disturbing. I condemn it in the strongest term possible and I wonder where the Government finds that energy to fight an individual who has brought a lot of changes to this Nation, who has raised an alert on the rot within the Government.

The Eurobond and NYS scandals have not yet even been dealt with yet when Prime Minister Raila heads to IEBC to address crucial issues he is being teargassed. Where is Government get all the resources instead of dealing with Alshabab who are killing innocent Kenyans?

(Applause)

We are also foreseeing a planned election rigging in advance in the manner that we can see the IEBC being managed. Even a small child in Kenya can tell you that IEBC is not suitable to hold a free and fair election and yet when this is raised you hear the Jubilee leadership more so the Deputy President giving very inflammatory statement whenever he is in a function. This means that this Country is not going to be safe during elections and therefore we as Siaya Assembly Members must ask for an adjournment tomorrow so that we demonstrate to let the world know that we are dissatisfied with what they did to our party leader Prime Minister Raila Amollo. I therefore rest my case.

Hon. Speaker: Thank you, Hon. Members, as you are aware, you rose on a point of Standing Order No. 35 which states that the Assembly can adjourn to discuss a definite matter of National or County importance. Rising from that position of the standing orders we have deliberated or ventilated on the issues that happened yesterday in Nairobi. The rest as I said before it was not in the interest of

this Assembly to debate whether we have to demonstrate or not and soon after this debate back to ventilate. The rest will take the initiative of the political leadership and not the Floor officially. Having said that we want to move to the next Order. Next Order!

Hon. Members, there being no other business, I urge you to be upstanding for adjournment. As we adjourn, I have been informed by the political leadership that as soon as we are done with the KRA officials, we remain behind for communication from the leadership and the area political leadership on the way forward, I don't know for what! There being no any other business, this House stands adjourned until tomorrow, 27th April, 2016 at 9.00 a.m.

The House rose at 4.14 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 27TH APRIL, 2016

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

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

PRAYERS

*(The Speaker and the Clerk-at-the-Table
consulted)*

Standing Orders, laid on the Table on
Tuesday, 26th April, 2016.

Hon. Otieno: Seconded.

(Question proposed.)

**COMMUNICATION FROM THE
CHAIR**

Hon. Speaker: Hon. Members, I shall request that after the morning sitting, we converge here to see if we can look at those proposals from the Governor so that in the afternoon, we have ample time going through those amendments if need be, then we dispose of them as early as today.

NOTICE OF MOTION

Hon. Osuri: Thank you, Mr. Speaker, Sir. I want to give a notice of motion:-

THAT this House adopts revised Standing Orders of the Committee on Rules, Procedure, Powers and Privileges on reviewing of the County Assembly Standing Orders, laid on the Table on Tuesday, 26th April, 2016.

MOTION

Hon Osuri: Thank you, Mr. Speaker, Sir. As it has been laid on the Table of this House, I would propose to put the motion on the revised Standing Order on the Committee on Rules, Procedure, Power and Privileges on reviewing of the County Assembly

Hon. Speaker: If there is no contribution, then I call upon the mover to reply.

Hon. Osuri: Thank you, Mr. Speaker, Sir. I want to say that Hon. Members of this House were given Standing Orders and they were part and parcel of these changes that were proposed by the Committee.

They shared these practices with other comparable jurisdictions with the National parlance in the past three years. The Committee has considered the proposals in the Constitution, the chairperson for a loss of the Members and I think Members have gone through the documents and have seen the proposals that are there.

There is also provision that if there is anything in future that they would wish to be considered, they are free to do so. Therefore, I would like to thank the Hon. Members for having seen the document as well as the contents and have considered the consent of a review. Thank you.

(Question put and agreed to.)

Hon. Speaker: Hon. Members, that would mean that from today on, these Standing Orders that we have just passed will replace our previous Standing Orders which are also reviewed from the interim Standing Orders 2013. On transitional issues, I shall issue guidelines because I am aware that new Committees have been created while there is no budgetary allocation for them and I am also aware that some have been merged. But importantly, the Selection Committee needs to move with speed and ensure that reconstitution that has been in their hands for so long, because time is now, is also included. So far that's it.

As I mentioned before, as soon as we finish this, we should remain behind to discuss the memorandum so that we are able to finish with it in the afternoon and I am also aware that the political parties were supposed to converge and discuss their own issues.

ADJOURNMENT

Hon. Speaker: Hon. Members, there being no other business, this House stands adjourned until this afternoon, 27th April, 2016 at 2.30p.m.

The House rose at 9.54 a.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 27TH APRIL, 2016

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

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

PRAYER

(The Speaker and the Clerk-at-the-Table consulted)

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members, may I communicate to you that the Coalition CORD has asked me to inform you to let the Membership remain behind after this afternoon Sitting to engage further on planning that they were doing. Next Order!

BILLS

THE SIAYA COUNTY WARDS
DEVELOPMENT FUND BILL NO. 2 OF
2014 AND THE SIAYA COUNTY
ASSEMBLY SERVICE BILL NO.3 OF
2014

COMMITTEE OF THE WHOLE HOUSE

[The Hon. Speaker left the Chair]

IN THE COMMITTEE

[Hon. Adera took the Chair]

Chairperson: Hon Members, we are now in the Committee of the Whole House. Consider Memorandum of the father of Siaya County Ward confirming 2014, these are dates that are now referred back from the Executive after we had

passed the Motion and the Executive did not sign them and instead.. Order! Hon. Members at the back there, I can hear some commotion behind there. I would now call upon the Chairperson of the Budget Committee to proceed.

Hon. Chairperson: Maybe before we precede, Hon Members, I believe you have noticed it's the first time we are discussing referrals in the Assembly. The law stipulates that a Bill once passed shall be taken to the Governor for assent, if it's not assented to within 14 days, they will bring back to the House the said Bill together with a Memorandum. If the Assembly considers the reasons or doesn't, then we can still pass the Bills as they are or as they were without any amendments and actually pass into law without the Governor replying to it. It's not mandatory that he assents to them. It's like our second passage makes them automatic. So, in your deliberations you should take that into considerations.

Chairperson: Precede, Hon. Abayo.

Hon. Abayo: Thank you, Mr. Chairman, I wish to Move that the Committee on Budget and Appropriation has considered the Memorandum of referral of the County, Siaya County Ward Development Bill 2014. I believe Members have copies of that report and I want to refer Members to page 5 where we have the recommendations. Mr. Chairman, as observed by the office of the Governor, the Bill has not been signed, the ordinary,

2016 SIAYA COUNTY ASSEMBLY DEBATES

note the ordinary need as that would amount to be part of the County revenue.

This Committee therefore recommends that the ordinary revenue as provided by the Bill be the equitable share as proposed by the commission on revenue allocation for the financial year. Further, this meeting would then be included in the definition of terms of this day for that would stand as an amendment. On second area raised regarding the percentage of the ordinary revenue to be allocated for the Ward development project, the Committee has the opinion that intervenes in the common arrangement for the last three years.

Mr. Chairman, there should be progression in the funds allocated to the Wards, for instance, Mr. Chairman, this Assembly approved Kshs. 29.5million, then Kshs. 31million then Kshs. 33million to Wards during the 2013/14, 2014/15, 2015/16 respectively. For consistency and progression, the committee feels that all possible factors this amount should be maintained or increased as compared to the current financial. In lieu of this, Committee has---

Chairperson: Which clauses are you doing?

Hon. Abayo: Chair, there are clauses that we have lifted from the sub sections of the Bill. I haven't tied this to the specific sections, so I wanted to raise, Mr. Speaker, some of the provisions that we have made, allow me to ask so that I can get a copy so that I can tie it to the segment.

Hon. Chairperson: it would be important so that we can move together with Members on the proposed changes.

Chairman: Are you ready to proceed?

Hon. Abayo: Yes, Mr. Chairman. One of the issues raised by the Governor on clause 4:2A talks about an amount less, less than 20% of all the ordinary revenue of the Siaya County in every financial year. This had been raised by the Governor that should change, but the Committee has recommended that this be sustained.

(Clause 4)

(Question, that Clause 4 be part of the Bill, proposed)

(Question, that Clause 4 be part of the Bill, put and agreed to)

(Clause 5-32)

(Question, that Clauses 5-32 be part of the Bill, proposed)

(Question, that Clauses 5-32 be part of the Bill, put and agreed to)

Hon. Abayo: Chairman, there is no contention in that Clause 34 but there shall be a ward development.

Chairman: Is that Clause 34?

Hon. Abayo: Yes, for there is no contention of that and we have the Governor raising an issue on Clause 34.

(Clause 33)

(Question, that Clause 33 be part of the Bill, proposed)

(Question, that Clause 33 be part of the Bill, put and agreed to)

Hon. Abayo: Chair, one issue that has been raised is the involvement and that is on section 34 C, the issue raised by the Governor is on the role of the MCA and I want to read what sub section A states; that

2016 SIAYA COUNTY ASSEMBLY DEBATES

within 45 days after elections, each Member is sworn in or a particular ward shall convene a public meeting of registered voters in their respective Wards.

Chairman: I wish to refer you to the Memorandum of reasons from the Executive, do you have a copy?

Hon. Abayo: yes

Chairman: Because from my copy I think it didn't have any issue in clause 34 and with that, I think we are through with the Memorandum of reason because we already dealt with Clause 33 but now that you've moved a Motion to deal with Clause 34, I think I shall give you time then we can put a question on Clause 34 as it is. Ok, proceed.

Hon. Abayo: What I am raising is that the issue of involvement of MCA is not so as stated in the Memorandum and I would propose that the whole of section 34 be sustained and even that specific area be retained.

(Clause 34)

(Question, that Clause 34 be part of the Bill, proposed)

(Question, that Clause 34 be part of the Bill, put and agreed to)

Chairman: Before we move to the next Clause, I thought that we are through with this one.

(Clauses 35-49)

(Question, that Clauses 35-49 be part of the Bill, proposed)

(Question, that Clauses 35-49 be part of the Bill, put and agreed to)

(Schedules)

(Question, that Schedules be part of the Bill, proposed)

(Question, that Schedules be part of the Bill, put and agreed to)

(Clause 1)

(Question, that Clause 1 be part of the Bill, proposed)

(Question, that Clause 1 be part of the Bill, put and agreed to)

(Title)

(Question, that Title be part of the Bill, proposed)

(Question, that Title be part of the Bill, put and agreed to)

Hon. Abayo: Mr. Chairman, on part one has been mentioned Bill, on part 2, I wanted to make an addition so that we are able to define what ordinary revenue is.

Chairman: Do you want to make an amendment?

Hon. Abayo: Yes, I certainly bring in a new Clause, a Clause that has not been defined and that is one of the things that the Governor has raised but we have not specified what ordinary revenue is.

Chairman: Hon. Chair, can you proceed.

Hon. Abayo: Mr. chairman, in the Memorandum, it has been raised that the Governor would want to know that the 20% we are talking about the first Ward and we have said that in the Bill it states that 20% of the ordinary revenue and that he has asked that this be specified so I wanted that on part two we have an addition because this was not defined. Ordinary revenue and that would refer to

2016 SIAYA COUNTY ASSEMBLY DEBATES

the equitable share as proposed by the commission on revenue allocation.

Chairman: That is under clause 2?

Hon Abayo: Yes.

(Clause 2)

(Question, that Clause 2 be amended, proposed)

(Question, that Clause 2 be amended, put and agreed to)

(Question, that Clause 2 as amended be part of the Bill, proposed)

(Question, that Clause 2 as amended be part of the Bill, put and agreed to)

Chairman: I believe we are done with this Bill with the County Development Fund 2014 and we now proceed to County Assembly Service Bill 2014.

(Clause 2-27)

(Question, that Clauses 2-27 be part of the Bill, proposed)

(Question, that Clauses 2-27 be part of the Bill, put and agreed to)

Hon. Otieno: Thank you, Mr. Speaker, Sir. The Memorandum that was brought by the Governor on clause 28 is currently overtaken by events because you find that the fund is being enjoyed by Members and the CEC mentioned is the one who will be doing the requisition from the Controller of the Budget so the proposal was that it be sustained as it is.

(Clause 28)

(Question, that Clause 28 be sustained as in the Bill, proposed)

(Question, that Clause 28 be sustained as in the Bill, put and agreed to)

(Clauses 29-44)

(Question, that Clauses 29-44 be part of the Bill, proposed)

(Question, that Clauses 29-44 be part of the Bill, put and agreed to)

(Schedules)

(Question, that Schedules be part of the Bill, proposed)

(Question, that Schedules be part of the Bill, put and agreed to)

(Clause 1)

(Question, that Clause 1 be part of the Bill, proposed)

(Question, that Clause 1 be part of the Bill, put and agreed to)

(Title)

(Question, that Title be part of the Bill, proposed)

(Question, that Title be part of the Bill, put and agreed to)

Chairman: Hon Abayo, start with the Ward Development Fund Bill 2014.

Hon. Abayo: Mr. Chairman, I beg to Move that the Committee do report to the House its consideration of the Siaya County Wards Development Fund Bill 2014 and its approval therefore amendments.

(Question, that the Committee reports to the House, put and agreed to)

2016 SIAYA COUNTY ASSEMBLY DEBATES

Chairman: The Chairman of the County Assembly Service Board or Representative, Leader of Majority?

Hon. Otieno: Mr. Chairman, I beg to Move that the Committee give Report to the House its consideration on the Siaya County Assembly Service Bill and its Approval therefore without Amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

Hon. Adera: Thank you, Mr. Speaker, Sir. The Committee of the whole House has been sitting to deliberate on some two Bills that were referred with Memorandum of reasons from the Executive. I wish to give a report of the deliberations that we've had at the Committee of the whole House, Mr. Speaker, Sir, with your permission I wish to start with the Siaya County Ward Development Fund Bill. I beg to report that the Committee of the Whole House has considered the Siaya County Ward Development Fund Bill 2014 and approved the same with amendments.

Hon. Speaker: Yes, Hon. Abayo.

Hon Abayo: Mr. Speaker, I beg to Move that the House do agree with the Committee in the said report.

(Question proposed)

(Question put and agreed to)

Hon. Adera: Mr. Speaker, Sir, our second Bill that the Committee of the whole House deliberated on was the Siaya

County Assembly Service Bill. I beg to report that Committee of the whole House has considered the same and has approved the same without Amendments.

Hon. Speaker: Yes, Majority Leader.

Hon. Otieno: Mr. Speaker, Sir, I beg to Move that the House do agree with the report in the said report.

(Question proposed)

(Question put and agreed to)

(Applause)

Hon. Speaker: Hon. Members, having done that for the avoidance of doubt, I want to share with all of us the provisions of the law in the Standing Order no. 143 on Assenting to a Bill.

143. (1) The Speaker shall, within fourteen (14) days, forward a Bill passed by the Assembly to the Governor.

(2) The Governor shall, within fourteen (14) days after receipt of a Bill-

(3) The Governor refers a Bill back to the Assembly; the Assembly may, following the appropriate procedures under this section-

(a) amend the Bill taking into account the issues raised by Governor; or

(b) pass the Bill without amendment.

(4) If the Assembly amends the Bill taking into consideration the issues raised by the Governor, the Speaker shall, within fourteen (14) days, submit the Bill to the Governor for assent.

(5) If the Assembly amends the Bill a second time without amendment, or with amendments which do not accommodate the Governor's concerns by a vote supported by two-thirds of Members of the House, the Speaker shall, within seven days, re-submit the Bill to the Governor and the Governor shall, within seven (7) days, assent to the Bill.

(6) If the Governor does not assent to a Bill or refer it back within the period referred to under paragraph (2) and (5) the Bill shall be taken to have been assented to on the expiry of that period.

Thank you. Next order!

ADJOURNMENT

Hon. Speaker: Hon. Members, there being no other business, May you be upstanding for adjournment.

(All Hon. Members stood in their places)

Hon. Speaker: Members, as I said earlier, after the Sitting we shall have Members of the CORD coalition converge for just 3 minutes or so. There being no other business, this House adjourns until tomorrow, the 28th of April, 2016 at 2.30 in the Chambers.

The House rose at 3.15 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

THURSDAY, 28TH APRIL, 2016

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

The Speaker (Hon. George Okode) in the Chair

PRAYER

**COMMUNICATIONS FROM THE
CHAIR**

1. LATE START OF THE PLENARY
2. CORD MEETING

Hon. Speaker: Hon. Members, we shall want to extend apologies for beginning late, 30 minutes late. Actually, it was not the desire of the Chair or the presiding officer to keep you waiting but it is a statutory requirement that the names that were sent to us by the Governor had to be dealt with by today, failure to which we would have given the Governor an express permit to appoint the names without the Assembly pronouncing itself on the two nominees. We normally want to make such decisions the last minute and our secretariat had a problem but I am hoping that within the shortest time possible the report will be ready for your reading and subsequent moving and consideration. So, apologies!

Secondly, today, the CORD team was supposed to have a meeting informally in the morning at 11.30am so that they chart the way forward on matters pertaining to the Coalition but that meeting never took place. I want to urge you that that team remains behind after our Sitting this afternoon.

I want also to inform you that there is a Motion that will come where the Majority Leader is requesting that the House adjourns until Wednesday in the

morning to allow the House to engage. Be reminded that we shall be going on a one month recess on Thursday; so whatever Business we have, we must deal with it latest Thursday next week. Next order!

PAPERS

Hon. Otieno: Thank you, Mr. Speaker, Sir. I have a number of Papers to lay before the House this afternoon. I shall begin by laying;

1. The Siaya County Assembly brochure
 2. The Siaya County Assembly Strategic Plan
 3. The Siaya County Assembly 2014/2015 Annual Report
 4. The Siaya County Assembly Specific Leadership and Integrity Code
 5. The Siaya County Assembly Speaker's Rules 2016
 6. Quarterly Financial and Budgetary Review Report for the 3rd Quarter ending 31st March 2016
 7. The Siaya County Budget Estimates for F/Y 2016/2017
 8. County Assembly of Siaya Committee Operations Manual
- Thank you, Mr. Speaker, Sir.

Hon. Speaker: So I direct that the Papers laid be produced in several copies for Members' interrogation then they can discuss on them, those that don't require question put, we shall do informal debate, then the relevant documents to go to relevant Committees; the Quarterly

2016 SIAYA COUNTY ASSEMBLY DEBATES

Financial and Budgetary Review Report and the Siaya County Budget Estimates for F/Y 2016/2017 to go to the Budget and Appropriation Committee, this time round we are hoping that we shall involve members of the public so that we don't have complaints coming from their end. Next order!

NOTICE OF MOTION

REPORT OF THE SELECT COMMITTEE ON APPOINTMENTS ON THE VETTING OF NOMINEES TO SIAYA COUNTY EXECUTIVE COMMITTEE AND THE COUNTY SECRETARY

Hon. Madialo: Mr. Speaker, I rise to give a Notice that this House adopts the Report of the Committee on Appointments on the vetting of nominees to Siaya County Executive Committee and the County Secretary laid on the Table of the House today, 28th April, 2016.

Hon. Speaker: Did you lay the Report or you just gave Notice of Motion? Lay it for the Hansard record.

Hon. Madialo: Mr. Speaker, may I lay the Report that is before the House.

(Hon. Madialo laid the Paper on the table)

Hon. Speaker: Thank you. Next order!

STATEMENTS

LICENSING OF FISH TRADERS IN SIAYA COUNTY

Hon. Andiengo: Mr. Speaker, Sir, pursuant to Standing Order 42 (2), I rise to seek a Statement from the Chairperson of

the Committee on Trade, Industry, Labour and Cooperative Development regarding licensing of fish traders in Siaya County.

In the Statement, the Chairperson should;

1. Explain why fish traders have not been licensed for the purposes of trade regulations, trader identification and revenue catchment.
2. Explain why fish movement permits are no longer given; a practice that is causing loss of revenue to the County. It also denies the traders a chance to have documents for securing loans from financial institutions while lack of such permits also breeds unfair trade practices.

Thank you, Mr. Speaker.

Hon. Speaker: You realise that we shall be going on recess on 5th of May, 2016, therefore you may want to indulge on that document very quickly and the Report tabled here, latest on 5th May, 2016. At least a progress report to reach this House by then.

SIAYA COUNTY MARKET PLANNING AND GENERAL ADMINISTRATION OF LAND ISSUES

Hon. Ombee: Pursuant to Standing Order 42 (2), I rise to seek a Statement from the Chairperson of the Committee on Lands, Physical Planning, Surveying and Housing regarding Siaya County market planning and general administration of land issues.

In the Statement, the Chairperson should;

1. Explain whether developments of markets in this County are guided by any plan, considering that stalls and related structures are built at random in most centers.

2016 SIAYA COUNTY ASSEMBLY DEBATES

2. Inform this House of any long or short term plans to modernize both old, private and commercial buildings in major towns in this County.
3. Clarify any plans in place to deal with owners of plots in town centres that have remained undeveloped for many years.

Thank you, Mr. Speaker, Sir.

Hon. Speaker: The same directive I gave to the Committee on Trade Industry and Cooperative Development applies to this Statement. I am reminding the coordinator of CORD operations that while you were away; that is the MCA for Siaya Town, that while you were away, Communication was made that after the Afternoon Sitting we shall be having a discussion with the CORD membership in the Chambers.

Hon. Members, I want to propose that you allow the mover to proceed. Next order

MOTION
APPOINTMENTS
ON THE VETTING OF NOMINEES TO
SIAYA COUNTY EXECUTIVE
COMMITTEE AND
THE COUNTY SECRETARY

Hon. Madialo: Mr. Speaker, Sir, I am on my feet to move a Motion which is:-

THAT this House adopts the Report of the Committee on Appointments on vetting of nominees to the Siaya County Executive Committee laid on the Table of the House today 28th April, 2016. I request the Hon. Stephen Adera to second.

Hon. Adera: I do second.

Hon. Madialo: Mr. Speaker, Sir, on behalf of the Committee on

Appointments, I have the honour and pleasure to present the Committee's Tenth Report on nominees for appointment as County Secretary and Member of the County Executive Committee in charge of Health Services.

May I take this opportunity to thank all Members of the Committee for their input and valuable contributions during the deliberations and vetting of the nominees. On behalf of the Members of the Committee on Appointments and pursuant to the provisions of Standing Order No. 185, it is my pleasure and duty to present to the House, the Committee's Report on the tenth vetting of the County Executive nominees.

1.1 Committee Membership

The Committee on Appointments was constituted by the House on Tuesday 30th April, 2013 comprising the following Members:-

1. Hon. George Okode
– Speaker of the County Assembly/Chairperson
2. Hon. Stephen Ouma Adera, MCA
– Deputy Speaker/Vice Chairperson
3. Hon. Edwin Martin Otieno, MCA
– (Leader of the Majority Party) Member
4. Hon. John Ombewa Gare, MCA
– (Chief Whip) Member
5. Hon. Sylvester Madialo, MCA
– Member
6. Hon. Lorna Adida, MCA
– Member
7. Hon. Christopher Apiyo Apiyo, MCA
– Member
8. Hon. Jared Abayo, MCA
– Member
9. Hon. Joannes Andiego, MCA
– Member

2016 SIAYA COUNTY ASSEMBLY DEBATES

10. Hon. Sella Akinyi Okwako, MCA

- Member

11. Hon. Shaban Omar, MCA

- Member

1.2.1 Committee mandate

The Committee on Appointments is one of the Select Committees established under Standing Order No. 185 (1) which provides that, the Committee on Appointments shall consider, for approval by the House, appointments under Article (179(2)(b) of the Constitution (Members of County Executive Committee).

1.2.2 JUSTIFICATIONS

The Committee resolved to continue with the vetting process for the two persons resubmitted by H.E the Governor due to the following reasons:-

- i. Stalling the process would jeopardise service delivery in the County since the two positions were key in the functioning of the County Executive.
- ii. The deliberate move by the appointing authority to cure the problem that was there in considering Ugenya as had been recommended in the previous Committee Report by nominating Dr. Concellia Aoko Ondiek to the position of County Executive Committee Member for Agriculture, Livestock and Fisheries. However, the Committee Assembly has not been able to proceed on with the vetting process because of a Court Injunction filed by Philigona Atieno Ooko, who had been sacked from the portfolio.
- iii. The people of Ugenya Sub County still feel left out in the

County Executive Committee hence the appointing authority should consider them; further noting that Dr. Ondiek has multi disciplinary background and can be considered anywhere and not restricted to the Agriculture docket that still is involved in a legal tussle.

- iv. That in considering the matter, the Governor is advised to look into previous Assembly Committees' reports that had adversely mentioned some County Executive Committee members for non performamance.
- v. Health issue was a matter of County concern and the constant threats of labour disruptions by the health workers requires a immediate redress by a substantive office holder.
- vi. The term of the interim County Secretary that was previously serving expired as aresult of the expiry of the term of Transition Authority, therefore leaving the office without a substantive holder would lead to legal tussles.
- vii. The current acting County Secretary holds the office without being vetted as should be the case. The office of the County Secretary is critical in coordinating County Executive departments and is instrumental in facilitating communication with the County Assembly.
- viii. That a caveat be put to the appointing authority to address the issue of inclusion of a

2016 SIAYA COUNTY ASSEMBLY DEBATES

representative of Ugenya Sub County in the County Executive Committee within two months from the date of receiving this Report. Failure to adhere to the same beyond the mentioned timelines, then the Assembly will resort to the following redress actions:

- a. To dissolve the County Executive Committee,
- b. To move an impeachment motion on the Governor for failing to act according to the law.

- c. Any other redress avenue available to ensure compliance.

1.3 Nominations by H.E the Governor.

Pursuant to Article 179(2)(b) of the Constitution, H.E. the Governor, Cornel Rasanga, resubmitted to the County Assembly through the Clerk's office, the names of two nominees vide letters dated 31st March 2016 for vetting by the Committee on Appointments and consideration for approval by the County Assembly for appointment as a member of the Siaya County Executive Committee as hereunder;

S/No.	NAME OF NOMINEE	PORTFOLIO
1.	DAVE ANYONA KANUNDU	County Secretary.
2.	DR. CHARLES OLANG'O ONUDI	County Executive Committee Member in charge of Health Services.

1.4 Committee Meetings

The Committee held four meetings; on Monday 11th April 2016, Tuesday 19th April 2016, 26th April, 2016 and on 28th April 2016 during which the members deliberated on the reasons given by H.E the Governor and the Committee's earlier recommendations in the ninth Report on the vetting of the two nominees and its justification to proceed with the process.

2.0 BACKGROUND

2.1 Establishment of the Committee on Appointments

The Committee on Appointments is one of the Select Committees established under Standing Order No. 185(1) with the mandate to consider for approval by the House, appointments of County Executive Committee under Article 179(2)(b) of the Constitution. The said Article requires H.E. the Governor to nominate and with the approval of the County Assembly,

appoint County Executive Committee Members. Section 10 of the Siaya County Public Appointments Approval Act 2014, provides inter alia that, where the nomination of a candidate is rejected by the Assembly, the appointing authority may submit to the relevant House the name(s) of another candidate(s), and the procedure for approval specified in this Act shall apply accordingly.

2.2 Appointment Process of the Nominees

- (ii) Pursuant to Article 179(2)(b) of the Constitution of Kenya 2010, H.E. the Governor resubmitted to the County Assembly through the Clerk's office, the names of the nominees for vetting by the Committee on Appointments and consideration for approval by the County Assembly for appointments of the two nominees as County Secretary

2016 SIAYA COUNTY ASSEMBLY DEBATES

and Member of the Siaya County Executive Committee in charge of Health Services respectively.

- (v) The Honorable Speaker in a communication to the House on Thursday, 31st March, 2016 informed the House that the County Assembly had received the names of the said nominees and directed that the resubmitted names and Curriculum Vitae of the said nominees be referred to the Committee on Appointments for vetting and reporting to the House after the short recess.
- (vi) The public was invited to participate in the vetting process. Press and media announcements were made inviting the public to submit memoranda on the suitability or otherwise of the said nominees pursuant to Section 6(9) of the Siaya County Public Appointments Approval Act 2014. However, no memoranda were received from the public on the nominees or raising objection to their nomination.

3.0 VETTING OF THE NOMINEES

In conducting the vetting process, the Committee on Appointments examined the nominees against the following criteria, amongst others, in accordance with the Siaya County Public Appointments Approval Act of 2014.

- (i) Academic qualifications
- (ii) Employment record
- (iii) Professional affiliations
- (iv) Potential conflict of interest
- (v) Knowledge of the relevant subject
- (vi) Overall suitability for the position

(vii) Tax compliance

(viii) Integrity

3.1 Dave Anyona Kanundu – County Secretary Nominee

Besides the above requirements, the committee also vetted the nominee as per the provisions of Section 44 of the County Government Act 2012 on appointment of the County Secretary.

Mr Dave Anyona Kanundu appeared before the Committee on Friday 19th February 2016. He submitted original copies of the following documents of which he had submitted copies before:-

- ID card
- Curriculum Vitae
- Academic and professional certificates
- Compliance Certificate from Kenya Revenue Authority (KRA)
- Clearance Certificate from Higher Education Loan Board (HELB)
- Duly filled self declaration form on Leadership and Integrity from Ethics and Anti-Corruption Commission (EACC)
- Clearance Certificate from Credit Reference Bureau (CRB)
- Clearance Certificate from Criminal Investigation Department (CID)

He stated to the Committee that;

- He is 58 years.
- He is a resident of Kanyaluo Ward, Rachuonyo Sub County, HomaBay County.
- He holds a Bachelor of Arts degree in Political Science, Public Policy and Administration, Economics and International Relations from the University of Dar es Salaam, Tanzania, and a Post Graduate Diploma in

2016 SIAYA COUNTY ASSEMBLY DEBATES

Education from Kenyatta University, Kenya. He doubles up in consultancy in Monitoring and Evaluation, Strategic Planning, Employee and Work environment Surveys.

- He has over 20 years in public service as an educationist and has worked and consulted widely for the civil society organizations including International Republican Institute(IRC) and the Center for Multiparty Democracy.
- He is currently Senior Principal, Kijabe High School and has spearheaded the growth of the school from 500 to a population of over 1000 students.
- He will serve as head of the County Public Service and will be non partisan in the service to the county.
- That with the vast experience in leadership and management, he will improve the performance of the public service and in delivery of the required services in the County.

Committee Observations

The committee made the following observations:

- The Board returned him as second placed in merit after the interview exercise and the Governor in exercise of the powers conferred upon him under section 44 of the County Governments Act, 2012 picked him as his preferred nominee.
- A section of the Committee membership expressed reservation with his communication skills and

expressed reluctance to accept him as suitable based on those grounds.

- It was demonstrated to the Committee that he was admitted to the University of Nairobi and was a student therein in the years 1978 to 1981, where after he was expelled, and he later joined the University of Dar es Salaam, where he studied during the years 1981 to 1982 and graduated with a bachelors degree having had his credits transferred and considered in awarding the said degree.
- All the constitutional requirements on the issue of integrity were satisfied and documentary evidence availed

3.2 Dr. Charles Olang'o Onudi – County Executive Committee Member Nominee for the Department of Health Services.

In vetting the nominee, the committee also considered the provisions of Section 35 of the County Governments Act, 2012 on appointment of the County Executive Committee Member.

Dr. Charles Olang'o Onudi appeared before the Committee on Friday 19th February 2016. He submitted original copies of the following documents of which he had submitted copies before:-

- ID card
- Curriculum Vitae
- Academic and professional certificates
- Compliance Certificate from Kenya Revenue Authority (KRA)
- Clearance Certificate from Higher Education Loan Board (HELB)
- Duly filled self declaration form on Leadership and Integrity from Ethics and Anti-Corruption Commission (EACC)

2016 SIAYA COUNTY ASSEMBLY DEBATES

- Clearance Certificate from Credit Reference Bureau (CRB)
- Clearance Certificate from Criminal Investigation Department (CID)

He stated to the Committee that;

- He is 60 years old.
- He comes from North West Kisumu Location, Maseno Division, in Kisumu County.
- He holds a Masters of Public Health (MPH) degree from Royal Tropical Institute, Amsterdam and Bachelor of Medicine and Bachelor of Surgery (MB.CHB) degree from the University of Nairobi.
- He has also attended other medical related courses in various institutions.
- He has over 30 years experience in the Health Sector, rising from the position of medical officer in 1985 to the position of Director/CEO, Kenya Medical Training College, (KMTC), during which he was instrumental in creation of KMTC campuses in the County.
- He is well versed in formulation, interpretation and dissemination of Health Policies.
- That given the job, he will provide guidance, supervision and coordination of the Health staff and activities in the County in collaboration with other leaders from the region.
- That because of his vast experience in the sector and having previously worked in the County, he understands the challenges facing the Health

Department. He will seek for networking with other NGOs such as UNICEF, DANIDA and IFAD. The challenges he cited includes HIV prevalence. A matter that requires attitude and behavioural change and availability of supplies (ARVs).

- That his transformative leadership style will involve looking at what is already in place, what has not been achieved, then bringing on board all the key players as per the Department's Strategic Plan.
- On financial management, he informed the Committee that budgetary allocations should be adhered to as passed by the Assembly and viament be done only if there is a Supplementary Budget.
- When asked about his feelings on being proposed from Kisumu County to a position previously held by somebody from Ugenya sub-county, he said that he sees himself as a professional and that the requirements for this position as was advertised was to be a Kenyan citizen and not necessarily from a section of Siaya County.
- When further asked on what he had specifically done to Siaya in the previous positions he held in Siaya, he stated that he had been instrumental in the establishment of the following: Siaya, Bondo, Ugenya and Rera Medical Training Colleges.
- A section of the Committee members felt that this position was supposed to be from Ugenya Sub-county as is the feeling from

2016 SIAYA COUNTY ASSEMBLY DEBATES

Ugenya constituents and as is prescribed in Section 35(1) of the County Government Act, 2012

Committee Observations:

- The Committee noted that he was an experienced professional worth his salt with vast experience in the health sector
- He is a master in his field and undertands the health indicators affecting Siaya County with a clear strategy to mitigate the negative indicators
- He had demonstrated good communication skills and good mastery of the challenges affecting the health sector in general in Siaya
- Despite his over 30 years of public service, when asked about his alleged previous display of arrogance , the Committee found him to be so humble and open throughout his interaction with the Committee.
- The Committee found him qualified as per the provisions of the Section 35 of the County Government Act, 2012, bearing in mind that the health sector in Siaya has had various challenges that require an experienced professional with necessary networks to deliver the much needed health services.

4.0 COMMITTEE'S RECOMMENDATIONS TO THE HOUSE

1. DR. CHARLES OLANG'O ONUDI

The Committee UNANIMOUSLY found Dr Charles Olang'o Onudi SUITABLE for the post of County Executive Committee Member incharge of Health Services.

This is based on his qualifications as per the legal requirements and in submitting all the requirements of chapter six of the constitution.

2. DAVE ANYONA KANUNDU

Eight members of the Committee found Mr Dave Anyona Kanudu to be SUITABLE for meeting the qualifications provided for under the law, while two members found him unsuitable due to his poor communication skills and the manner in which he responded on his consultancy experience.

The provisions of Section 44(2) of the County Governments Act, 2012 stipulates that the County Secretary shall be a person who is competitively sourced from amongst persons who are university graduates and with at least ten years experience in administration and management. This is evident in this case, any reservations touching on physical interactions notwithstanding.

The Committe's role is statutorily confined to vetting the suitability of the nominees in accordance with the provisions of the law and not undertaking formal interview. Allow me to urge Members to adopt the Report of the Committee on Appointments on the vetting of nominees for Siaya County Executive Committee and the County Secretary.

Hon. Speaker: Hon. Members, I propose the question which is:-

THAT this House adopts the Report of the Committee on Appointments on the vetting of Nominees to Siaya County Executive Committee and County Secretary laid on the Table of the House today Thursday 28th of April, 2016.

Hon Were: I have keenly listened to the presentation by the Appointment Committee and it's a bit strange when particularly we look at the office of the County Secretary. The Ward nominee of Dave Anyona Kanundu, there is discontentment from the Ugenya community that they have not been catered for in the appointments in the Executive and merely to tell them that they are on the queue as we eat to our fill and we shall only think of them tomorrow, is gross social injustice. I had looked at the documentation and representation; there is a promise of anticipated action, which is same as giving a dose of Panadol to a critical condition that needs proper and timely treatment.

We are aware that in the interview there was No. 1 and No. 2 and you ask yourself why there was provision of these numbers, therefore we shall not give the Executive a cut blank cheque to be picking people in a pedestrian way. What will happen to the number 1 whom we know comes from this County? Where will he seek recourse if this Assembly will go ahead to endorse a fraudulent intentional action...?

Hon. Oriaro: Point of order.

The Speaker: Hon. Oriaro!

Hon. Oriaro: Is it in order for the Hon. Member to impute fraudulent intentions on any Member who participates in the process of appointments rather than the Executive who made the appointment, the board or the vetting Committee of this Assembly?

The Speaker: Hon. Nguere, expound on what you mean by fraudulent intentions.

Hon. Were: You know I am tempted to look at the perception within the public court.

The Speaker: I have asked if you would expound on the meaning of fraudulence and how this meets that definition, fraudulent.

Hon. Were: I don't know what was in the mind of the Hon. Member who raised the point of order.

The Speaker: We want to know what was in your mind when you said fraudulent action.

Hon. Were: You know am merely a vehicle for the perception in the public how they would look at the presentation, why No.1; a son of this County is Left out.

The Speaker: To you, does that amount to fraudulence; the perception of the public?

Hon. Were: It may be a compromise, because you see this is not the first time...

The Speaker: Hon. Were, can you withdraw that statement?

Hon. Were: I withdraw! I withdraw! I withdraw!

The Speaker: Yes!

Hon. Were: let me continue, you know unfair labour practices should not be given space in the Assembly because we are supposed to reinforce merits as well as fair labour practices and it would be fair for this honorable members to say no we want No. 1 and if we are not able to find No.1, then we allow for No. 2 but not through this Assembly. We have that mandate.

The Speaker: Yes, Hon. Owii.

Hon. Owii: Will it be in order for the member who is on the Floor to be very specific about who is No. 2 and who is No. 1, so that we know if at all he is talking about the health docket or this other dockets of County secretary. He is really trying to mix up things and some of us do not have such background and there are

even some prerogatives that he is even aware of that we do not need any more qualification than he has given us.

(Interruption)

The Speaker: What the Hon. Owii is saying is that you support your arguments with legal facts, whether it's true that the appointing authority has to mandatorily submit the name of No. 1 in the case of a County secretary. Lack of clarity on that makes him think that you are deliberately confusing the House.

Hon. Owii: I got my colleagues all right because my point of reference was County secretary, I was not talking about CEC Health and I know the people who came for the interview. But you see any system that is put in place has to be redeemed, that's why this argument is in this Assembly. But if it were that the Governor has the right and space to pick on any person who came for the interview then there is no need for vetting and for this Assembly to look at this Report.

The Speaker: Yes, Hon. Andiego!

Hon. Andiego: Allow me to inform the Member on the Floor that the law says that the Governor is handed over 3 names then he chooses from that and is not directed to pick on No. 1. Thank you.

Hon. Were: I am not disputing that but you see we are laying foundation such that 20 years to come, our sons and daughters will say: look; parliament was able to lock out unfair labour practices. You know hon. Andiego.

The Speaker: Order, hon. Were, am really trying to restrain myself from interrupting you but I want you also to adhere to your mandate as a legislator that you talk of facts. The procedures of amending a law, a National statute like the

County government act is not in the mandate of this Assembly. You have the recourse of writing a memorandum to the National Assembly or Senate to amend that law; it's not in our mandate to amend it if a matter went to the court, now it will not be judged depending on our views but on the existing law. Would you just proceed!

Hon. Minami: I think we are being unfair to the County. As much as we are aware that it is in the prerogative of the Governor to choose anybody among the persons presented to him by the Board, we cannot question. What we are questioning and as per my understanding is what was the reason or somebody might ask why No. 1 was chosen and not No. 2, it's not that the Governor doesn't have the prerogative to choose either No. 1 or No. 3.

What were some of the factors; number one I shall say this: if No. 1 in an interview had 92 points, number 2 had 53 points while number 3 had 50 points. The law states that the Governor will be presented with at least three names; the question may be why No. 1, with 92 points not chosen and No. 2 with 53 points chosen. As much as we know that the prerogative is with the Governor, I think that's the context in which Hon. Were is putting it; he is not disputing the authority of the Governor.

The Speaker: Thank you. Hon. Booker has expanded what he captures to be your views and if that is so, confine it rather than leveling it to this.

Hon. Were: Today I just want to stand on order of merits and excellence, and I want to go home when my conscious is clear that I have defended the poor and the weak those who come from this same County. There is no way you can go

2016 SIAYA COUNTY ASSEMBLY DEBATES

outside to shop for manpower which exists within the County because it's mischief. Therefore, this I reject and I am coming to the office of CEC Health, there are accomplished professionals who may raise the appointments and have vast experienced and I am so disappointed.

The Speaker: Hon. Owii!

Hon. Owii: I just wanted to move out because I am sure that I shall be more confused.

(Laughter)

The Speaker: Yes, Hon. Booker.

Hon. Minami: Thank you for the opportunity once more to contribute to this debate. I am not interested in the person of the CEC Health because I believe that this is a person who would have been given this position immediately he was brought to this Assembly. My concern is in the position of the County Secretary, which from the onset I want to state that I support but with reservations.

One, the Committee in this House in charge of Appointment in their first Report when this person (County Secretary) was brought to this Assembly, the Committee raised some very fundamental issues that as much as the Committee in its Report fail short to state that this person was not qualified, but the reasons that they gave are very fundamental and I want to tell honorable members in the first Committee Report on 23rd February and think members will see that between 23rd February and today which is 28th of April; 2months, what has changed in this County Secretary job?

1. During its first report on this said nominee, the Committee observed that his experience in public service was limited to a

School set up. Today we are told he has over 20 years experience in public service, so I don't know what has changed within these 2 months to make the nominee to gain these 20 years.

2. A section of the Committee membership expressed reservation with his communication skill and expressed reluctance to accept him as suitable based on those grounds.

3. We were told that the Committee was not convinced with his communication skills to befit the position of County Secretary given that he will be the one in charge of communication as per Section 43, 44; 3c of the County government act. On 23rd the whole Committee was not convinced, while today the same Committee finds the same person fit for the position as well as his communication skills.

4. As a county Secretary, you must be somebody who is able to communicate and when I look at the C.V. of this said nominee as presented to the Assembly, some of his qualifications include good communication skills and I want to admit that I not being a member of this Committee, I had an opportunity to attend the vetting of the said nominee.

5. I want to say that the Report of the Appointment Committee on 23rd February was very accurate in terms of the nominee's communication skills and I want to believe that within the 2 months, maybe the nominee has

2016 SIAYA COUNTY ASSEMBLY DEBATES

gone back to school and has gotten some certificates that have improved his communication skills which should be presented to this House so that they can help us in disregarding the first Report and accept this one.

The Speaker: Yes, Hon. Owii!

Hon. Owii: I wonder if it's in order for us to discuss a Report that we had dispensed with, yet we have a Report before us here and one can just mention but it's not the Report that we are discussing here.

Hon. Minami: Not all of us have that particular Report, so we would want to confine ourselves to the Report that has been given by the Appointment Committee, the one that we are discussing not giving references that we don't have.

The Speaker: Hon. Members, personally at some point I wanted to ask that, that's not the Report at this Assembly but remember we don't also want to be seen as biased. Sometime we give room for the people to make such references and I shall leave it upon the mover of the Motion to clarify where that deviation is coming from, mine is only to clarify to you that it's possible for a Committee to change its position, guided by law.

It's not an offence and that's why at times we take Reports here back to the Committee to go and refine and bring them back and we would never say that based on the previous Report this is wrong while we can use those variances to either interrogate further or ask the mover to expound on them. So, Hon. Booker, proceed.

Hon. Minami: Thank you for upholding the prerogative of this House because this House must respect its position even in 20 years to come, so

somebody cannot disown a position that was taken only 2 months ago, thank you. Mr. Speaker, Sir, I think Hon. Owii should give me time to precede because he is going to have his time.

(
Inter
rupti
on)

The Speaker: Hon. Owii, it's being out of order when you interrupt a member when he is contributing. Don't be so rowdy! Hon. Booker, proceed.

(Interruption)

Hon. Minami: Thank you, Mr. Speaker, Sir. Even though someone is trying as much as he can to confuse me, the facts are still here and I shall proceed. Today we are told that in the last Report, just reading what is here, 'upon interrogation especially on his area of consultancies as stated by him on County Assembly vetting questioner.

He could not convince the Committee whether he indeed offers consultancies on the area stated, today that point is not here and not among the observations that the Committee is putting forth to this House. I wonder where that point has gone to, whether today that point is meaningless or whether he convinced the Committee of what he did in terms of consultancy and I believe it could have been stated.

Hon. Adera: Point of order, Mr. Speaker, Sir.

The Speaker: Yes, Hon. Deputy Speaker!

Hon. Adera: Is it in order for Hon. Booker to expect to copy paste that Report to today's proceedings?

The Speaker: Well, I think Hon. Booker is making reference to content substance in the Report, we just allow him to proceed.

Hon. Minami: Thank you, Mr., Speaker, Sir. I am going to request my fellow members who are in the Appointment Committee to relax because we are just interrogating the work they did yesterday and what they are doing today on the same person. Isn't it? I was there during the vetting process and this man could not convince me and was not consistent and I remember you, Mr. Speaker, if the Hansard could be there, telling this person to relax that he is not in court of law and he could not even explain himself and could not say where he trained MCAs and on what. Today that point has vanished.

Hon. Madialo: I am sorry, Mr. Speaker, I moved the Motion objectively and when a member of this House attends a Committee meeting of which he is not a member, he attends as a member of public, unless members of the public will be allowed to come and start quoting what the speaker said in that Committee.

The Speaker: Order! Order! Order, Hon. Members if anything, Hon. Booker said that he supports the Report but with reservations. It is in the interest of this Assembly and the World knows we can critic certain things if they lead to certain conclusion. It's also within the mandate of the members who will be contributing to give justifications because they have justifications to give as to why they changed the Report. I don't find that to be so difficult. Hon. Booker, can you precede?

Hon. Minami: thank you, I was almost finishing and I was alarmed because as a responsible member of this

House, I keep track of whatever proceedings especially decision that we have made so that some may not come here and challenge us on one thing when we know how we decided earlier. In fact I am just asking my colleagues to keep track of whatever we do in the Assembly and we would be having the problems we have in the previous recommendations,
(Interruption)

The Speaker: I don't want us to disrupt Hon. Booker, just sit and I shall not allow the House to generate into disorder like this. I personally like the contribution by Hon. Booker because these are the exact questions that the public will ask and so we can have a reason to tell them why we changed it bearing in mind that it was not a consideration under the law. Hon. Booker, continue.

Hon. Minami: Thank you, Mr. Speaker, Sir. In my own native language, when you want to speak to the public when you have said so much you say (okwe uru), when you find that people are not happy.

The Speaker: You know you are out of order but the Speaker is biased; he likes you just, proceed.

Hon. Minami: From the documents availed before me, there was no documentation to satisfy or prove the alleged vast experience to the consultancy work undertaken as stated in his CV. The CV is here and you write anything in the CV but the Committee at this time was right to write that there was no documentary evidence in this CV and that is not featured in today's Report.

I want to say that as much as I support this, as I said from the onset, because I have reason to support this; I want to say that as a House we cannot sit

2016 SIAYA COUNTY ASSEMBLY DEBATES

back and let a Committee do things as they want especially when we have a public who is very curious and watchful of the proceedings of the Assembly.

Because these Reports are accessible to the public and somebody will come today and access both the Report on the said nominee and the Report that we want to pass today on the same, then he/she will find the glaring inconsistency in our Report and I think in future, let us be guided by the Constitution, let us be guided in being factual.

As I conclude, in our last discourse on this matter, the clarion call of that day was that the Ugenya people have been left outside the cabinet. Today, that clarion call is not there and among the nominees that we want to approve today, I can't see anybody from Ugenya. I want to believe that the people from Ugenya, the larger Ugenya; have accepted that it is not a must for them to be in the cabinet...

(Applause)

So that next time nobody is going to bring up the issue of Ugenya in this Assembly.

(Applause)

Mr. Speaker, Sir, as I conclude, I want to say that in the appointment of the CEC for Health, there is no urgency that is forcing us to appoint the CEC, if the urgency is there, I know somebody is going to allude that the Health Workers have issued a strike notice. Health Workers in this County have been striking even with the CEC, so a strike cannot be an emergency. I want to urge this House so that we uphold the dignity; we uphold the standards that make this House to be

rated number 2. This kind of Report should not exist especially in our fourth year of discourse. Thank you, Mr. Speaker, Sir.

(Applause)

Hon. Speaker: Hon. Deputy Speaker!

Hon. Adera: Thank you, Mr. Speaker, Sir. I am a Member of the Committee on Appointments and I wish to support our document which we have tabled in this House today and has been moved by Hon. Madialo. A lot has been said about our Report and I wish to inform this House that our Report is an improvement of the one that was previously presented here. As it is done in Commonwealth Countries, it is done in our National Assembly; it is done in our Law Courts and anywhere.

An Assembly can make a review of its earlier Report, this is not a unique scenario that we are facing and that is why we had to present another Report and not to present the Report that we had previously discussed. Members will ask themselves; why Hon. Madialo had to go through the whole Report instead of telling Members that we had already dealt with this Report and it is just something that we want to avoid repetition. This is a totally different Report which has been reviewed by the Appointments Committee and new developments as they come, it forced the Committee to make some critical changes that is not a unique scenario that we are facing.

The Committee held several sittings while deliberating on the Report and we discovered that there were some mistakes that were done and we did not want to carry them forward and that is why

2016 SIAYA COUNTY ASSEMBLY DEBATES

there was need to make corrections. The mandate of the Vetting Committee is given by law and things that the Committee is mandated to look at are also given by law. If you read the Constitution you will be guided on the things that the Vetting Committee should be looking at. In fact we discovered that we even went over board by asking some questions.

One area that I wish to inform Members on is that what the Committee engaged in was about consultancy, the nominee or the candidate for the docket of County Secretary was asked during the vetting exercise, in fact he was not asked, he talked about his consultancy experience and when the Committee Members were trying to engage him further, we discovered that perhaps he didn't have a lot of information in that area but as a Committee, that was not our mandate, in fact it can only give him an added advantage.

There are areas to look at. While vetting, we are guided by the Appointments Act and he can appoint the first, the second or the third, irrespective of the marks that are awarded. Infact, people always say that the law is an ass; you may find that the best person scored 99%; then the second person scored 50% and the third person scored 20%; and because the law says that three names shall be forwarded to the Governor who will then chose one; he may even decide to appoint the person with 20% and leave out the best with 99%. That is the law and we cannot do anything about it. I wish the Assembly was in a position to make that amendment; we would have done it as soon as yesterday.

Mr. Speaker, Sir, we have talked about the communication skills of this particular candidate. The Committee also

discovered that they made an error in looking at the communication skills of a candidate. That is not our mandate. I'm saying this on behalf of the Committee. We made an error in the first report. I want to refer Members to our earlier---

Hon. Minami: Point of order, Mr. Speaker!

Hon. Speaker: Yes, Hon. Booker.

Hon. Minami: Mr. Speaker, as much as I would not wish to disrupt Members as they contribute, if indeed the Committee realised they made an error in their Report, then they should inform this House that in the first Report they made a mistake by referring to the communication skills of this nominee yet it was not...

Hon. Adera: Is that a point of order, Mr. Speaker, Sir?

Hon. Speaker: Order! Order!

Hon. Adera: Is that a point of order or he is making his presentation?

Hon. Speaker: Hon. Deputy Speaker, just take your seat.

Hon. Minami: Mr. Speaker, while it was not within our mandate to know whether this person can talk or not, if indeed the Committee realised that, then they should have put it in their Report so that we don't confuse the first and second Reports. This being an improved Report, it should have such kind of references.

Hon. Speaker: Yes, Hon. Deputy Speaker, sorry, you were interrupted. Just proceed now.

Hon. Adera: Mr. Speaker, Sir, I was just wondering whether it was a contribution or a point of order. Whatever Hon. Booker is talking about, I have already said that the Committee made an error in looking at the communication skills of the nominee. In reference to a scenario which we witnessed earlier, one time we vetted a nominee by the name

2016 SIAYA COUNTY ASSEMBLY DEBATES

Christine who was nominated to the docket of Education. That nominee at that particular time had all the papers, but when it came to the communication skills, we had our own reservations but we said no.

We refrained because the law only gives us specific areas to look at while vetting, and communication skills is not one of them. We ended up approving that nominee despite her wanting communication skills. We borrowed our argument on that incident by saying the Committee has no mandate to judge a nominee on the basis of his/her communication skills. That is why we dropped the issue.

Mr. Speaker, we could not transfer the garbage in our previous Report to this new one. Both are documents of this Assembly and people are allowed to make reference to them at any given time.

There is a Member who has talked about the Ugenya issue. Mr. Speaker, we cannot be gagged. Ugenya is part of Siaya County and to tell this House that we cannot introduce any matter that touches on the people of Ugenya is wrong. Well, the Member has walked out, but what he said is wrong. We need to deal with issues as an Assembly and not segregate people based on where they come from. We shall not entertain that and we shall still insist that we must have a representation in the Executive Committee. Supporting the appointment of Dr. Onudi does not mean that we have left out the Ugenya issue.

The Health docket is not a preserve of Ugenya. Ugenya can be given any cabinet post; whether Education; Trade; Finance; we have people who are capable of handling such positions. One of our recommendations is that within two months, the appointing authority should

look into the Ugenya issue and bring a name despite the court case.

Hon. Ombee: Point of clarification, Mr Speaker, Sir.

Hon. Speaker: Yes, Hon. Ombee.

Hon. Ombee: Mr. Speaker is the Hon. Member answering questions or he is contributing?

(Laughter)

Hon. Speaker: He is debating. Let him just debate.

Hon. Owii: By answering questions!

(Laughter)

Hon. Adera: Mr. Speaker, I wish to summarise by saying that the two nominees are suitable. We did review our earlier Report and in comparison, this is a better and improved document. This is not the first Committee to do that; we have done this before and we shall continue doing so and every time we come up with new versions of reports, we should not waste time making comparisons. That is a waste of time and it's taking us back. Thank you, Mr. Speaker.

Hon. Okuku: Point of order, Mr. Speaker!

Hon. Speaker: Yes, Hon. Elisha Okuku.

Hon. Okuku: Is doing comparison a waste of time in this Assembly? Is it in order for the Hon. Member to misguide this Assembly that doing comparisons is a waste of time?

Hon. Speaker: I rule that it is not wasting time. Yes, Hon. Agoko.

Hon. Agoko: Thank you, Mr. Speaker, Sir. I want to join my colleagues in appreciating the good work done by the Committee. I rise to give my opinion. I may be inclined or be tempted to support

2016 SIAYA COUNTY ASSEMBLY DEBATES

the Report, but two issues are coming out so glaringly.

[The Speaker (Hon. Okode) left the Chair.]

[The Temporary Speaker (Hon. Abayo) took the Chair.]

One is that this House is being taken for granted by the Appointments Committee and I want to say that if it were in a court of law, just like this House should be viewed as one, then the Appointments Committee should be charged with plagiary. They are misguiding the Assembly and the Siaya citizenry at large. It is worth noting that the vice Chairperson of the Committee has widely accepted that the initial Report they delivered to this House was rubbish.

(Laughter)

(Applause)

It is so sad, Mr. Speaker, Sir. The earlier Report delivered to this House was a garbage. I want to take this House to page 7 on the justification sub-heading---

Hon. Adera: Point of order, Mr. Temporary Speaker, Sir!

The Temporary Speaker (Hon. Abayo): What is your point of order?

Hon. Adera: Mr. Temporary Speaker, Sir, is it in order for the Hon. Member to put words into my mouth? Never did I refer to any Report of this House as garbage.

An Hon. Member: You did!

The Temporary Speaker (Hon. Abayo): Hon. Agoko, you did refer to the Report as garbage. You should be able to substantiate. The vice Chair did admit that there are changes in the Report, but does that amount to garbage?

Hon. Agoko: Thank you, Mr. Temporary Speaker, Sir. I would request that you allow me not to belabour on what has already been captured in the HANSARD. That will be a waste of time and would be tantamount to taking this House for granted.

The Temporary Speaker (Hon. Abayo): Is it your position that amendments done to particular sections of the Report tantamount to garbage?

(Loud consultations)

Hon. Agoko: Mr. Temporary Speaker, Sir, the word garbage came out clearly and it is in the HANSARD. I don't know whether my ears are failing me, but he used the word garbage.

The Temporary Speaker (Hon. Abayo): Then continue.

Hon. Agoko: Mr. Temporary Speaker, Sir, I would request the Chair to put some order in this House so that it is devoid of shrewd machinations by mercenaries within the House aiming to disrupt Members from making their contributions.

(Loud consultations)

The Temporary Speaker (Hon. Abayo): Hon. Agoko, I would want to say that the Chair is able to see everything and everywhere in this House. Would you take this opportunity to make your presentation?

Hon. Agoko: Mr. Temporary Speaker, Sir, there's a line on page 6 - number 8 that reads; that a caveat be put to the appointing authority to address the issue of inclusion of a representative of Ugenya Sub-County in the County Executive Committee within two months from the date of receiving this Report. I

2016 SIAYA COUNTY ASSEMBLY DEBATES

want to say that this is the highest level of hypocrisy and misguidance.

(Applause)

Mr. Temporary Speaker, Sir, the Ugenya community cannot be taken for granted and be placed in the back burner where they will be considered after two months.

This House has passed quite a number of resolutions and none has ever been implemented or effected by the Executive; and I would say that the Chair that has never demonstrated the willingness and ability to ensure that the resolutions of this House are implemented by the Executive.

[The Speaker (Hon. Okode) resumed the Chair.]

[The Temporary Speaker (Hon. Abayo) left the Chair.]

Hon. Speaker: Hon. Agoko, you are out of order!

(Laughter)

The Committee that deals with following resolutions of the House is the Implementation Committee. Three years down the line you must be aware of that.

Hon. Agoko: Thank you, Mr. Speaker. I want to bring it to the attention of Members that many of the resolutions of this House have never been implemented and the Chair has never shown or demonstrated willingness to follow up on the same.

Hon. Speaker: Order, Hon. Agoko! Don't misuse the Floor of the House! You are a Chair of the Agriculture Committee; resolutions of the Committee are bestowed on you! Infact, if they cannot be implemented, then the Members should even kick you out! The resolutions of this

House are implemented by the Implementation Committee. Proceed!

Hon. Agoko: Thank you, Mr. Speaker---

Hon. Owii: I wanted to---

Hon. Speaker: Proceed, Hon. Agoko!

(Laughter)

Hon. Agoko: I would request the Chair to ensure that the business of this House is devoid of shrewd machinations by people acting as mercenaries who are hell bent in disrupting Members from making their contributions.

(Laughter)

Hon. Speaker: If there are mercenaries, please, would you withdraw! Precede, Hon. Agoko!

(Laughter)

Hon. Agoko: Mr. Speaker, this Committee puts it that it will demand for the dissolution of County Executive Committee should the appointing authority fail to consider the people of Ugenya. They also say that if the Ugenya issue is not addressed, then the Assembly should move an impeachment Motion on the Governor for failing to act according to the law. Mr. Speaker, this is a fallacy! This is hypocrisy!

(Laughter)

This is a big lie! This is plagiarism! This House, under the Chairmanship of the Speaker, has never demonstrated willingness to do the same.

The flip-flopping in the recommendations by this Committee has demonstrated a lot of inconsistency. It leaves a lot to be desired of and if we are

2016 SIAYA COUNTY ASSEMBLY DEBATES

to redeem the image of this House, then the miracles that might have taken place within the last few days---I was not present when the other report was---

Hon. Speaker: Hon. Agoko, comparison of the previous Report with this one will be out of order and repetitious. Confine your arguments outside the comparisons. That was discussed when you were away.

Hon. Agoko: I was only saying the lack of consistency, whether there is some dry cleaning, whether there is some cleansing and some miracles took place either on the Executive or by the appointing authority, leaves a lot to be desired of and the integrity of this House is put to question.

Mr. Speaker, I was concentrating my contribution on the general report, but now I want to get to the nominees. One; Dr. Charles Olang'o Onudi; I wholesomely agree with the recommendations and I congratulate the Committee. On the position of the County Secretary, this is the hub of the County. The functions of this position are enormous and require somebody with super abilities; somebody who demonstrates eloquence; somebody who demonstrates ability to communicate well. This is the person that is going to give the face of Siaya in most of the serious engagements. I wonder what image we are going to create if we present a person who has challenges in communication.

The report says the Appointment Committee did not agree and there was contestation by two members. I wonder if their comments were put into consideration.

It could be a jungle where the majority have their way whether they are right or wrong. The same may happen here where

the majority may have their way, but it will be sad that we are placing somebody with communication challenges to give the face of Siaya County. Mr. Speaker, I beg to disagree with the recommendations on that person.

As I conclude, Mr. Speaker, it is worth noting that the office of the County Secretary has a lot to do, and this gentleman, he may be the incoming County Secretary, has had administration and management in a secondary school with a population of 1,000 students who merely take orders and commands. When you look at that level of administrative management *vis-a-vis* managing close to one million citizens of Siaya, then you realise that we are taking this County for a ride.

(Applause)

We are taking Siaya County to the dark days. Mr. Speaker, Sir, we are not taking Siaya County forward by putting such a person to preside over a population of close to one million people. Somebody who only has the experience of managing a place of a population of close to a thousand people who are majorly caged in a small place.

(Loud consultations)

Mr. Speaker, the machinations of distracting Members is almost playing by Hon. K'owii. He is jittering. He is---

Hon. Speaker: Hon. Agoko, confine yourself to the debate, please.

Hon. Agoko: Mr. Speaker that is the biggest concern I would like this House to consider and humbly reject the nominee. Thank you.

Hon. Speaker: Hon. Members, I want to remind you not to put the

2016 SIAYA COUNTY ASSEMBLY DEBATES

leadership of your Assembly into disrepute by making sentiments that are short-lived and you feel are going to give you unnecessary mileage. The Chair is an institution that you need to respect and you need to look at the roles and functions of the Chair!

(Applause)

However much you want to be clapped for and appreciated, you cannot underrate your Chair whose duty is to preside. The functions of Chairpersons of Committees are well defined in the Standing Orders! I shall not allow it! Even if it's a matter of being given votes, I shall not allow it because tomorrow somebody will be here and they will deserve respect!

(Applause)

Some of us restrain ourselves so much. Do you think the Speaker does not have a position on this? But he restrains himself! The same applies to Chairpersons of Committees; respect them! But if you want people to disrespect you, as a Chairperson, also disrespect other Chairpersons!

(Applause)

Yes, Hon. Otare.

Hon. Otare: Thank you, Mr. Speaker. I must say that I am very much thankful to the Appointments Committee and for the fact that they have separated the two nominees. Initially in the first Report, the nominees were put together and we were not given chance to debate properly.

I would just say that I support the nominee to the Health docket but I have an issue with the County Secretary nominee. Mr. Speaker, the issue that brought out this thing was not about

experience or what somebody has done, the names were rejected because of the Ugenya issue. In case we pass this Report the way it is, then it will be a betrayal to the people of Ugenya Sub-County.

We know very well that the Ugenya people cannot come Here the way they did last time because of the short notice; but if the report was to be brought to this House next week, then we would have seen the Ugenya people at the public gallery. We are here to defend our people! It is unfortunate and unfair, Mr. Speaker, Sir, to pass the two nominees from outside Siaya without considering the people of Ugenya Sub-County.

(Applause)

Mr. Speaker, in my opinion, I would say that we should consider the people of Ugenya Sub-County by giving them a chance to have a representative in the County Executive Committee. I would like to request Hon. Members to pass the name of the nominee to the Health docket and reject the County Secretary nominee so that there is something for the Ugenya people. *Asante sana.*

(Applause)

Hon. Okuku: Thank you. Mr. Speaker, Sir, I stand on my feet this evening to debate on this Motion. There is an adage that one tree can make millions of matchsticks but it only takes a single matchstick to burn millions of trees. When alive, birds eat worms, but when the birds are dead, they are eaten by worms. Mr. Speaker, Sir, this evening, I am a very sad member of this Assembly because of the debate that we are currently engaged in. On 23rd February, 2016, I wasn't around when the first debate took place. That

2016 SIAYA COUNTY ASSEMBLY DEBATES

afternoon I was in Tana River with the Water Committee.

When you look at page 8 of the Report, you find the name of one Dave Anyona Kanundu, the County Secretary nominee. When you read it keenly, even if you are a standard two pupil, you will realize that this candidate never appeared before the Appointments Committee. The Report says; besides the above requirements, the Committee also vetted the nominees as per the provisions of Section 44 of the County Governments Act, 2012 on appointment of the County Secretary.

Dave Anyona Kanundu appeared before the Committee on Friday, 19th February, 2016; this means that the Committee's report is based on what happened in February and not March or April. It means that Hon. Booker was bright and right by doing a comparison between the first and second reports because everything is based on the first appearance in February. This has confused me more.

The one who ranked first during the interviews for the position of County Secretary was from Ugenya. The one who has one home in Ugenya Sub-County and another home in Ugunja Sub-County. The Ugenya people have cried that they should be represented in the top decision making organ of the County. While I understand that you can only import the best quality products, I also understand that we cannot import the worst quality products from outside. We cannot import from Homabay somebody our people can beat in an interview. That is a mockery! I don't want to blame the Assembly or the Appointments Committee, but I want to stand tall and reject the nominee by the name Dave Anyona Kanundu. No matter

what, let the majority have their way but the minority should also have their say.

Mr. Speaker, Sir, one of the most fundamental duties of the Hon. Members in this House is to represent the people. When I am in this Assembly, I don't only represent the people of Yimbo East who elected me, but the entire populace of Siaya County. If the people who sit in the Appointments Committee and are from Ugenya did not think it wise to represent their people well, then I stand to---

Hon. Speaker: Hon. Elisha, the membership in the Committee from Ugenya do not represent Ugenya in that Committee; they represent the House.

Hon. Okuku: Thank you for that correction, Mr. Speaker, Sir. They do not represent Ugenya but they represent Siaya as a whole. As a people, there are times we borrow clothes from each other when we want to travel; but, Mr. Speaker, you can only lend your neighbor clothes if you have many. If the people of Siaya are not yet satisfied with appointments, why do we borrow from outside yet our people are more experienced and better than them?

Mr. Speaker, with the authority of those who elected me, I stand to reject the name of Anyona Dave Kanundu! He might pass through this House, but let it go on record that Elisha Omondi Okuku rejected his name! And if he comes in as the County Secretary, I shall make his work very difficult in this County because I don't like him!

(Laughter)

Mr. Speaker, our deliberations are aired every now and then and we appreciate this move by Radio Nam Lolwe

2016 SIAYA COUNTY ASSEMBLY DEBATES

and Gulf Radio. We encourage it and pray that it lasts longer. But how will our people view us when today they listen to us and we are in support of these names yet yesterday we had objections? That will downscale our standards! Therefore I stand to reject him! Let him come and serve and he will meet us head on!

Mr. Speaker, let me talk about Dr. Charles Olang'o Onudi who is the uncle to my friend, Hon. Agoko.

(Laughter)

Dr. Onudi, who is the uncle to my good friend, Hon. Agoko---

Hon. Agoko: Point of order, Mr. Speaker, Sir!

Hon. Speaker: Yes, Hon. Agoko.

Hon. Agoko: Mr. Speaker, Sir, is the Member in order to name uncles of people Here?

(Laughter)

Hon. Speaker: Is he not your uncle?

(Laughter)

Hon. Agoko: Mr. Speaker, that is not a substance.

(Laughter)

Hon. Speaker: You want to make us start thinking that you needed to have declared your interest first?

(Laughter)

(Applause)

Hon. Elisha, are you done?

Hon. Okuku: Mr. Speaker, I want to say that because health is very important, I want to support the nomination of Dr. Onudi due to his vast experience and qualifications; but I want to

reject the nominee for the post of County Secretary who was not seconded anywhere even in Jupiter; even in Mars; even in Saturn by the Transition Authority.

(Laughter)

Let it go on record that I rejected this person! Thank you!

Hon. Speaker: Hon. Members, I will now give you a maximum of five minutes because we should be winding up by 6:30 p.m. and it's already 5:00 p.m. The rule of debate is that you avoid repetitions; unnecessary interruptions and confine yourself to the subject matter.

(Hon. Aneme stood up in his place)

Hon. Aneme, you are out of order. When the Speaker is on his feet you need to sit down.

(Laughter)

Yes, Hon. Andiego.

Hon. Andiego: Thank you, Mr. Speaker. At times I tend to like the way we debate in this House and we must agree to disagree, which is very much normal. I am a Member of this Committee and I have been attending vetting of all the members that have been vetted in Siaya for all these years. I want the Members to understand that there are laws and regulations that guide each and every activity that we do.

At times we may want or wish to go the other way round but when we go into the laws and regulations, we are restricted to move in a certain line and therefore as we speak, as Committee on Appointments, we may have brought another Report here in the House which was read and am sorry to say that when we bring another one, we ought to have indicated that our first report was saying this but because we have dug dip into the

2016 SIAYA COUNTY ASSEMBLY DEBATES

law, it is now saying this and that is why we are bringing another Report.

I am sorry to say this, but most of us who do not sit in this kind of Committee, we have not known the laws that regulate what we are supposed to do in the Committee. If you allow me, Mr. Speaker, I want to tell the House that one of our mandates is only to look into the person brought to us how they were nominated and this is what we followed. At times, it is our wish or interest of each individual that may make us go beyond but we look deep into the law, we find that we are out of the law and we must come back to the right track. I don't think that it is wrong if you realized that we have slipped and now we stand and you tell your brother or sister that I went away but now I am back. It happens even in churches; that I was a bad man but now I have repented and I want to go the Godly way.

Mr. Speaker, as Hon. Andiego, representing South Sakwa, at first I did not support Mr. Kanundu, because of the way he was reacting when he was being asked questions; but going as per the law, we found that we should not do what we are not supposed to do, which was supposed to be done by those who were interviewing Mr. Kanundu, we are supposed to do what is required as an Assembly.

At times we need not to witch hunt because so and so is against me, personally I will do for you the right thing whether you are my enemy or my friend and that is what the Committee has done. Let our brothers and sisters not to say that maybe something or money exchanged hands, NO, we are going as per the law. Therefore I am urging, that however much we may hate something done by our enemies, please let us also restrict ourselves to the law.

When in that Committee, we were selected by this House and we have people from Ugenya, we have people from many other places, even Bondo. If one can stand and say that now the Ugenya people have accepted that they don't need any person as a representative from Ugenya, I would say that this is wrong, that was a decision that all of us want representation, regional balance in each appointment in this County. Even if you are a person from Ugenya and ---we represent the whole County of Siaya. I want to thank the Ugenya people for accepting to let the County move, taking into consideration that tomorrow will come and we put Ugenya somewhere. Let us not walk out and start inciting people that the Ugenya people who are in the Committee accepted the decision of the Committee.

Hon. Speaker: I am giving you 5 minutes only!

Hon. Andiego: Thank you, Mr. Speaker. I want to say that the mandate of this Committee is to vet, to look into the ways, if the law says that the person who is being appointed should be holding a degree and you find that this guy is holding a genuine degree, I don't think we should say NO to that. If the law says that he should be compliant and the guy is, why should we say NO? There is nowhere that the law says you must have good communication skills; we don't have it anywhere.

Therefore, I am asking the Members of this House that we act as representatives not as people who are going against our enemies out there. We are united and we want to see Siaya grow. If Mr. Kanundu fails in his duties, we also have the right to show him the door as it happened to Mrs. Christine when the

Governor felt that she is not performing her roles! Mr. Speaker, I support.

Hon. Speaker: Hon. Augo!

Hon. Augo: Thank you, Mr. Speaker, for giving me this opportunity. First of all I would like to thank the Committee on Appointments for doing good work and also my colleagues who have deliberated on this Report. It is so sad to hear that somebody from a teaching fraternity; a professional being insulted in this House, it is not good.

Somebody who was nominated to be a County Secretary! We have been benchmarking in some Counties, e.g. Kiambu, where you find this position being given to a luo! They did not see that this is a luo when they have Kikuyus there! If somebody has qualifications, why do we bring tribalism in this County? If you go to Mombasa, you will find the Clerk of the County Assembly is a luo! Even the Speaker, is a luo! Why are we bringing tribalism in this County? We are going to close doors for our people in other Counties.

We are on air, people are listening to us and they are following how we are deliberating. Now, somebody from Homabay; he is a professional, a graduate, a principal of a school- Kijabe High School, and now if people from Homabay hear you condemning this person, saying that this person is from Jupiter, have you ever seen a human being from Jupiter in this world? It is very sad.

In our deliberations Mr. Speaker, we have to think twice. Where are we, we people of Siaya? We are Kenyans and we are closing doors for our children to work anywhere in the Country.

Hon. Okuku: Point of Order.

Hon. Speaker: Yes, Hon. Elisha!

Hon. Okuku: Mr. Speaker, is it in Order for the Hon. to describe the House, because we were deliberating, putting our points forth, even the Director of Legal Services is not a person from this County and we are supporting him? So, if we deliberate and put our points forth, is it in order for a Hon. Member to stand and say that we are doing nepotism and tribalism? Why do we agree that Onudi is qualified yet he does not come from this County?

Hon. Speaker: Hon. Elisha, your point is well taken care of! Hon. Augo, kindly confine yourself to the debate, I don't want Members to start exchanging!

Hon. Augo: Thank you, Mr. Speaker, for protecting me. I just wanted to tell our Hon. Members that when deliberating and speaking, let us legislate knowing that we have our children, we have our people out there in every part of Kenya seeking for jobs. We had the Transitional Authority and the Acting County Secretary was a Kisii! Now, somebody from Homabay is a luo by tribe!

Let us accommodate our people, let us see into it that Siaya moves. The Hon. Prime Minister always tells us that let us leave 'ukabila' behind. Mr. Speaker, I thank you, so much for giving me this opportunity and I want our Hon. Members to support this Report because the rule says that, they can be three but one will be chosen. It is for the appointing authority to choose whoever he can work with. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Apiyo! Members, be reminded that I shall only give you 5 minutes because time is not on our side and don't be repetitious! Proceed!

Hon. Apiyo: Thank you, Mr. Speaker. Allow me to also add my voice as a Member of this Committee. I am in

support of this Report of one, Mr. Charles Olango Onudi, nominee for Health. There are different issues here. The issue of Dave Anyona Kanundu, there was an issue of qualifications. As a Member of this Committee, you remember when we were doing the vetting, everybody was seated, Dave was seated before us and we talked about the qualifications.

We all know, in this County Government, even some had also been taken before the Courts of Law with fake certificates and this is why we do the vetting. Why do we vet? We go deep and see with our own eyes; is this person really fit for this post? Before this Hon. House, this evening, I want to speak the truth before God, that on that day we were all convinced, and I quote ‘the whole Committee’, that Dave Kanundu never certified all of us. Ukweli isemwe!

(Applause)

Hon. Madialo: Point of order, Mr. Speaker!

Hon. Speaker: Yes!

Hon. Madialo: Mr. Speaker, it is not procedurally okay to reveal who said what in the Committee but you do know that I am one of those people who did not agree with the first Report. You were the Chair then and it is not in order for a Member of this Committee to say that we all did. The fact that the Report says the Committee and it does not say Madialo, was not contented with it does not mean that we agreed.

Hon. Speaker: Hon. Members, confine yourselves to the Report before the House. Whispers that we did in the Committee and in the corridors of vetting rooms is not part of this Report. Proceed!

Hon. Apiyo: Thank you, Mr. Speaker. We now want to approve, just allow us to do exactly what should be done. I think I did not humiliate anyone or do anything wrong before this House. My second point, about the qualifications, after vetting, what I personally observed, one Dave could not elaborate and explain the skills of communication, I stand here and I must speak the truth, that is what I saw.

My second point here, in the interview we did, the Board came with the results and they gave us three nominees. The three were: one was our own son from Ugenya, second was Dave Anyona Kanundu, third was from my Sub County, who was also appointed with the TA in Taita Taveta as a County Secretary. Among the three, Hon. Members, we had good people we could as well choose, one of our own from this County.

Hon. Speaker: Hon. Owii, what is it?

Hon. Owii: Thank you very much, Mr. Speaker. I am wondering the work of the vetting Committee and the work of the Board, we are getting lost somewhere. When the Board says that we give three nominees to vet, the Committee talks of three nominees that we were supposed to vet, is there any reality in that? Is it even in law? If at all it was so, then this particular Report is deceiving! That is what I have gotten from Hon. Apiyo.

Hon. Speaker: So, what is your point of order?

Hon. Owii: My point of order is that, is there possibility, and is it in order to say that three nominees can be presented for one particular post to the Committee on Appointments?

Hon. Speaker: I have not seen a point of order there, will you proceed, please!

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Laughter)

Hon. Apiyo: Mr. Speaker, thank you. I would request, kindly, let me present my views then anybody who wants to act, you can kindly act later. Thank you so much, Mr. Speaker. I was saying that, the slot of number one was from Ugenya, number two was Dave and number three was Fred from Rarieda Sub County.

We had our own sons who are qualified; Fred was a nominee from Transitional Authority who was also acting as a County Secretary in Taita Taveta County. This is why I would say, we have our own son here from Siaya. If we go against our people, if we go against the will of the people of Siaya, how are they going to talk about the Members of this County Assembly? Are we for real? Are we for our people?

Hon. Speaker: I just want to remind Hon. Apiyo about our Standing Order No. 95, on declaration of interest. 'A Member who wishes to speak on any matter in which the Member has a personal interest shall first declare that interest. Personal interests include pecuniary interest, proprietary interest, personal relationships and business relationships'. I want to advise that in our contributions we be very careful not to let the Members think that we are advancing a course of people we are related, and please be brief.

Hon. Apiyo: Mr. Speaker, thank you. I don't have any personal interest. One, the nominee I have mentioned was also a County Secretary; this man was never approved by Taita Taveta County Assembly. Why? They said they wanted one of their own. We invited the public when we were doing the vetting for the public to participate but it is unfortunate

that we are getting some information, like now, that we want to approve, like you have mentioned conflict of interest. This Dave Anyona Kanundu, His Excellency the Governor is his uncle.

(Laughter)

Why are we trying to talk about conflict of interest? I am not malicious, Hon. Members.

Hon. Speaker: Hon. Apiyo, take your seat! Hon. Members, I want to remind you that a Member shall be responsible for the accuracy of any facts which the Member alleges to be true and will be required to substantiate any such facts instantly and then, if a Member has sufficient reasons to convince the Speaker that the Member is unable to substantiate the allegation instantly, the Speaker shall require that such Member substantiates the allegations not later than the next Sitting day, failure to which the Member shall be deemed to be disorderly within the meaning of the Standing Order No. 112.

I want to advise you, Hon. Members that you being part and parcel of vetting Committee, you needed to have interrogated this, you needed to have fished out the influence if there was the relationship between this and the law that was violated and I also want to assure Members that you still have the wind, even if such is realized, after appointment you can establish that and the law will take its course. Will you proceed and avoid allegations which cannot be substantiated.

Hon. Apiyo: Thank you, Mr. Speaker, in our next sitting I shall present facts and evidence on the allegations I am talking about here; I have the facts and all the evidence.

Hon. Speaker: You will sign it on oath?

Hon. Apiyo: Yes, I shall.

Hon. Speaker: Okay!

Hon. Apiyo: Mr. Speaker, there is the Ugenya chapter, it is before this Hon. House, we tried to see how we could capture it. The issue of Ugenya, this is where we could have the issue of Ugenya sorted, if we cannot have one from Ugenya so that we stop the issue being left out, this was the time that we could give the Ugenya people the authority. If we cannot, ---talk anything about Ugenya.

Before I finish my, and this is to this Hon. House, let us not behave as IEBC which tomorrow we will go and demonstrate against. Let us behave like Hon. Members, like we are the representatives of the people. Let us come before this Hon. House and speak the truth. Hon. Elisha said that the majority will have their way, so, the minority? Thank you, Mr. Speaker.

Hon. Speaker: Thank you. I shall want to limit this debate now! Please, I have seen six people, Hon. Members, I know by now you have made a decision and I want to limit the debate now, I want to give—Yes, Hon. Aneme! I shall give the six of you two minutes each, please!

Hon. Aneme: Mr. Speaker, thank you very much for giving me the last chance. I am bothered and my problem is this House. It is true that whatever we are passing here is literature, literature for centuries. We can't be people who keep changing with time and we start searching without a road map. I would have been pleased if I could be convinced that when these colleagues sat down and before them they saw a person who cannot communicate and had no skills of communication, what has been on the road

map of not communicating today and tomorrow he is qualified to communicate!

When the two Reports are not tallying or there is no connection between failure and success, then I am totally rejecting this Dave for that office because communication is the key. Consistency, to my understanding, somebody who fails to be consistent is somebody who is forgetful, he can tell you yes then after two minutes he doesn't know what he has said. Such a person in a big office, if there is no road map from what convinced these people that yesterday he was inconsistent and today he is consistent, we cannot be convinced.

The issue of Ugenya, I am telling you that we in this House stand with our brothers and sisters to sympathize with how Siaya is going to work for one full term without Ugenya element in the Committee. I am now surprised that all the Ugenya people are now seeing a person whom yesterday could not communicate, he was not competent and today?

Hon. Speaker: Hon. Aneme, don't demean Ugenya people, please, to say that the Ugenya people are now not; you are portraying a picture that the Ugenya people are now changing positions based on nothing! Hon. Aneme, would you please conclude in one minute!

Hon. Booker: Mr. Speaker!

Hon. Speaker: Hon. Aneme, will you conclude in one minute, Hon. Booker, take your seat!

Hon. Aneme: Let me conclude. I thought today we were coming to read from the same script with people who the other day we supported very strongly and if they cannot support that now, it's good enough; let's wait for next time when somebody will cry from the other corner...

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Applause)

I stand to .

(Applause)

Hon. Speaker: Order! Hon. Aneme, we were not supporting the people, we were supporting a position, will you conclude in the next 30 seconds.

Hon. Aneme: I reject the nominee of this office. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Asewe!

Hon. Asewe: Thank you, Mr. Speaker, and thank you for giving me this opportunity to air my views. I would like to start by supporting the decision of this Committee. Many times a Report has been brought to this Assembly, discussed and for certain reasons turned down, given back to the Committee for reconsideration. It doesn't mean that whatever we discussed in the first Report is cast on stone and cannot be changed. There are some parts of the law that maybe observed and when we find it fit to change then we change.

So, the decision that was made the other time should not be a reason for turning down the nominee. The case of people from Ugenya was discussed, we agreed and now we have considered that it should not stop the County from moving, it will be considered when there is chance. If we stick on this, then the County will suffer because there are some key areas that need to be acted on by officers who should be in that position. Let us not stick to the case of Ugenya because it was not the reason for ...

Hon. Speaker: Hon. Murray, don't get repetitious!

Hon. Asewe: Thank you, Mr. Speaker. We don't need to get to what I can refer to as ---, we have our children who are also looking for positions in different Counties. If we say that this one is coming from this County...

Hon. Okuku: Point of order, Mr. Speaker.

Hon. Speaker: Yes, Hon. Elisha!

Hon. Okuku: Mr. Speaker, I would like Hon. Asewe to declare his interest because he is here and he knows very well that his home of origin is in Homabay and we are not disputing that one, why is he talking like that?

(Laughter)

Hon. Speaker: Hon. Members, Order! This House knows Hon. Murray Asewe as a resident of Siaya County, the grounds upon which he got the nomination to be in this House. We cannot start saying now that we are people from Sudan!

(Applause)

Are we going to say that you are stealing time for Siaya people to talk and you are coming from Sudan? Hon. Asewe, will you conclude please!

Hon. Asewe: Thank you, Mr. Speaker. I want to conclude and I don't want to back what you have said, but I was here in Siaya before the gentleman was born.

(Laughter)

Hon. Speaker: Hon. Asewe, proceed!

Hon. Asewe: Mr. Speaker, even in our prayer, we usually say that we shall

consider those people that are brought before us fairly, we should have reasons for turning down Mr. Anyona but not for the reason that he is coming from another County. Otherwise, I support the decision of this Committee.

Hon. Speaker: For gender reasons, may I start with you, Hon. Pamela!

Hon. Ngure: Thank you, Mr. Speaker. Mine is not lengthy, I have listened to the debate here and I have made up my mind on where I am going to vote and I can say here that I am supporting the Report. The only issue I have is really a point of clarification and I know when I ask it, I shall perhaps get it from the mover when he replies, this is to do with age.

I wonder why each time we have these nominees or these candidates, they come within the age of almost retiring, people close to my age or way above retirement age and yet we have children, we have people who perhaps would also serve well in those positions. So, the reason I have for point of clarification, there could be good reasons; maybe the younger ones did not apply or things like that. So, may I have that when the mover replies, otherwise I support the Report.

Hon. Speaker: Hon. Willis!

Hon. Ochieng: Thank you, Mr. Speaker, for having given me this chance. First I want to start by thanking the Committee on Appointments for having taken their time to work on this report and bring it back to this Assembly. Second, I want to say that as Hon. Members of this House, we are guided by the Constitution of Kenya and if at all we are doing anything in this House we must abide by the Constitution of Kenya.

I want to believe that these positions were advertised in our Daily

Newspapers and they are still on our Website. We want to look into it and see, what the requirements were for the position of the County Secretary and if at all the nominee by the name Dave Anyona Kanundu has all the qualifications that were required in the advertisement then we should stand with him and give him this chance. Secondly, this position was advertised in our daily newspapers and they are still on our website, we want to look into it and see what the requirements for the positions of County Secretary were. If at all the nominee by the name Dave Anyona Kanundu has got all the qualifications that were required in the advertisement then we should stand with him and give him this chance.

I want to believe that these two positions; County Secretary and CEC Health, we should be having people on those positions and we don't know when if at all we drop Such a qualified person as I can see his documents. I want to believe the Committee of Appointment is just an extension of this Hon. House, Mr. Speaker. I want to believe that a divided House will never win anything. I want to say that as per the recommendations of the Committee on Appointment, I want to believe that what the requirements of this position were, Dave Anyona has everything. I want to support.

Hon. Speaker: Thank you, Hon. Sela.

Hon. Okwako: Thank you, Mr. Speaker for giving me this chance. I request the House for two things. It is not good to use the issue of Ugenya here; we are all from Siaya and everybody knows very well the Ugenya issue is in court, we are waiting for the court resolution. We can't take things like a joke; we are not here for jokes but to work.

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Applause)

We are not here to say that I am from Ugenya, Alego or Bondo; while we are here together in one House, let us work like mature people. I support this although yesterday but one I did not support this Report. I mean, nobody can buy me because I have my house and home. Let us work like big people, we should support this Report that we brought, because those who are talking of Ugenya; Ugenya is in Siaya County!

If you are a politician, talk like a politician. People brought me here to work for them, so I should work with a person from where... Nakuru? If you brought that person here I, shall accept because he is also a human being. Let us not talk for the Ugenya people. Ugenya people are there and they are mature.

(Applause)

Hon. Speaker: Okay, you will summarize!

Hon. Owii: Thank you so much, Mr. Speaker, time is up really. I have one or two things to put across. I don't want us just to make a mistake of holding Siaya at ransom over this long time of giving us an okay for somebody who will either perform or not perform. I have every belief that it is upon us to see if at all what we are doing is good for the entire Siaya or not.

The truth of the matter is that there are cases of some of us who are professionals. For example, I was a teacher by profession and I could even see that a child could come and repeat a class and they would not actually confirm the same result they got the other year. Things can't be the same. You would not expect that the result that we were being given or the

Report that we were being given was just going to be the same with the other Report. There were quite a number of things that the team had told us that also show that they added, they overstepped their mandate and they were doing the work of other people. I want to say that let's not judge these people, let's wait and see if they perform or not.

On the issue of communication, if it was communicated, the truth of the matter is; the power of the gap is what should be bringing us people who can speak, not all of us can speak including me. Communication is not just mere speaking, it involves a lot; it can be verbal or nonverbal. So, I don't know exactly what that was, but if at all one man cannot speak at all, then this man is in problem.

I have every belief that with all the qualifications that were brought here you know we are given some tasks which we have to undertake because we are a Committee but not that we are qualified to do it. That is a fact.

I want to request that we respect the law. The law actually demands that if 30% of those in cabinet, 30% should come from without and in that particular cabinet I am telling you it is not even 10% for sure but then we should actually respect the law. The law has told us exactly, I am finishing Sir, on what actually qualifies somebody to be a County Secretary, it is here.

I want to appreciate the Committee. You really followed this one and that is what you have tabled for us here. We have seen it. If we have a mistake you would have said what we did about Donde. How many times was he brought here? It is the same Hon. Members that said now he is okay; it is the same problem that we were sending back now and again. How about

2016 SIAYA COUNTY ASSEMBLY DEBATES

Mr.... how many times did we return
Mr....and it is the same House not any
other new person and then all the time
people are keen on issues of ‘this man is
coming from our area, K’owii help us’.
Remember I helped you, my good friend.

Hon. Speaker: Now your time is up!

I want to say that those are examples that you tell us that we can change. Change is inevitable, it is a constant factor in life and we have to accept that we have to change. The Report has changed us. The emotion of Ugenya is no more here, so thank you. I support the Report.

Hon. Speaker: Thank you. Hon. Abayo!

Hon. Abayo: Thank you, Mr. Speaker. I think much has been said, issues of law have been put very clearly. I only have two areas. First is the concluding statement covering all the gaps and variances that may have been there between the first and the second Report and that the last statement on our Report, is just an area that we are reminding each one of us that this Committee may have considered some areas which were more of interview elements than vetting. I think that last statement covers all that we may have raised and what Hon. Booker had raised in the spirit of that last statement.

Allow me to make two clarifications; indeed it is true and we cannot demean, as I sit here, as a career teacher. Am happy Hon. Booker is seated next and has been here for long. Chair, the 20 years of experience for Anyona are in his CV and is reviewed and we took that as per what he has stated and all that he has done.

Hon. Speaker: Hon. Elida, are you coming back?

(Loud consultations)

Oh she is not leaving, okay proceed!

Hon. Abayo: In terms of 10 years’ experience in Administration and Management as a head of Institution, you see a teacher going to class in an institution like a school that has various cadres starting with the board that we equate to the Executive that has teachers, students and parents and the bigger community. Surely, even if it is managing problem, the Head managing curriculum which is very broad and co-curriculum activities. The first 3 presidents of this country were teachers.

(Applause)

The best in administration and management is a teacher. We cannot demean that, Mr. Speaker and it will not be right for me to sit here as a career teacher to see that happen.

Let me talk about communication. I am the one who raised the issue of communication and am happy the people who talked about this are in this House. Communication touches on 4 things. It is speaking, listening, writing and reading effectively. What we were exposed to was how we responded to questions. In writing, Mr. Speaker, if you reveal this guy’s CV and what he has put in writing, including CORD Manifestos, Mr. Speaker, it tells it all.

I just wanted to clarify that let us not just see somebody, maybe under anxiety somebody may not be able to respond. Those are two key issues that I wanted to clarify. Let me conclude by the Ugenya factor. By all standards, as we had resolved and forwarded this Report, the Governor has demonstrated the moves.

Hon. Ombee: A point of clarification!

Hon. Speaker: Yes, Hon. Ombee.

Hon. Ombee: Mr. Speaker, on page 12, 8 Members of the Committee found Mr. David Anyona Kanundu to be the best suited but what I want clarified is if we cannot approve the two nominees in one position because one nominee is called David Anyona Kanundu and the second nominee in the same position is called Mr. David Anyona kanundu. Thank you.

(Laughter)

Hon. Speaker: Thank you, Hon. Ombee. You are right but we all agreed that that is a typo issue but thank you for pointing it out. Thank you very much. The spectacles are helping.

(Laughter)

Hon. Abayo: As I conclude, there is a court injunction that is not even on the Assembly and the Governor cannot do anything. I need not declare that I am a member of this Committee, in the Report we have put it so clear and we have given a timeline and somebody is challenging the moral authority that this House would have to challenge the Governor on this.

It goes on record, it is so clear in law: Should the Executive Committee not be constituted constitutionally based on diversity, regional balance and all this then action needs to be taken. That means the Executive Committee should not be approved. That is one caveat for why the Executive Committee cannot be approved by this House. Should that happen and we are giving latitude as a Committee that within two months this should be seen.

One other thing that I want to make, the County Secretary is not a

member of the Executive Committee, he is just a Secretary, he implements the decisions; he does not vote in that particular Committee: that needs to be made clear. I want to ask Hon. Members for the sake of Siaya to move, let us pass this Report and leave it to the point that we shall engage and let us not take it like the Committee is taking a decision. The Committee is a subset of this House. What we have brought here stops being Committee, you take it over and what we resolve in this assembly.

Hon. Speaker: Yes, Hon. Gare then and I shall give the Majority leader and the mover will be asked to reply.

Hon. Gare: Thank you, Mr. Speaker. Mine is going to be very short. One, I also support the Report, as you realize I am a member of that Committee. I want to support the nominee that is called Charles Olango Onudi for the position of CEC Health together with the other one coming in for Count Secretary.

Why do I do so? I do so because I worked with Hon. Onudi but I don't want to support him because I worked with him. I want to support him because of his vast experience; the 30 years' experience in docket of Health just as I want to support kanundu because of his 20 years' experience in Public Administration not public institution, but Public Administration.

I want to tell this House that as the Committee of Appointment, we were doing vetting not interview, and the vetting we were doing, we had a yard stick. There were things that we were looking into. The morals. And that is why we are supporting Onudi because he has the professional experience in his portfolio.

Hon. Speaker: Yes, Hon. Elisha!

Hon. Okuku: Point of order! I think this is not the first Appointment Committee is sitting to vet. Any other Committee and everybody knows that we were not doing interviews; we were doing new appointments and the yard stick that this Hon. Member is talking about where was it on February before this appointee came? Was it lost?

Hon. Speaker: Hon. Elisha that day we never considered suitability.

Hon. Gare: Let me tell Hon. Elisha through you, Mr. Speaker.

Hon. Speaker: Excuse me. You have used your chance.

(Laughter)

Yes, Hon. Gare please proceed.

Hon. Gare: I want to say we were doing vetting not interview, but the yard stick that this Member is saying one; this person has a degree and 10 years' experience in Public Administration. This person met law of Integrity on Chapter 6. These are things that we were looking at, we were not looking at the relationship we have with him.

We are not saying we like him or we don't like him because we don't know him. So those are the yard sticks that we look at and during the interview and vetting, there is time limit. Am telling you and even us Members who are here we came here through election and if it were that we were coming through the oral vetting, some of us could not have spoken. It's true.

(Applause)

And during that time you were given 5 minutes, when do you want to judge this person that he cannot talk. We

are not saying that we support Charles Onudi.

Hon. Speaker: Hon. Ombee I believe you are back?

Hon. Ombee: Yes, I am.

Hon. Gare: I want to put it very clearly that as Appointment Committee; we were going to vet 3 people when the Governor returned this list. When we were just about to vet the other person, there was a court order and this person was coming from Ugenya. How then do you come here and tell us that Ugenya people are quiet and they have accepted?

Hon. Speaker: I wish the Chair had your energy.

Hon. Gare: Mr. Speaker, I want to tell you (I will lend you my energy) that when we are about to do the vetting and the County Assembly of Siaya puts these names in the newspapers and anybody who has an issue whether a relative to the Appointing Authority and if that is violated by law, you are supposed to bring a sworn affidavit before the Committee making the appointment which was never done. So how then do we know that this is a relative?

(Applause)

I want to say that let Siaya move ahead, let us not bring this issue of Communication skills, how could somebody be....

Hon. Speaker: Order! Hon. Apiyo!

Hon. Apiyo: Thank you, Mr. Speaker, what if we come to know that that is a relative of the Governor, what happens? Thank you.

Hon. Speaker: Hon. Apiyo, if we find out that is a relative of the Governor, and if you find out that the Governor influenced appointment of his relative to

the disadvantage of another person and that there is a law that was violated: acting on that; a Petition can ensue and acting on that can be taken to court. That would be an integrity issue and abuse of office which can be handled even in a court of law. Thank you.

Hon. Speaker: Let's conclude!

Hon. Gare: As I conclude, Mr. Speaker, I just want to comment on communication. Say this is somebody who has been in Public Administration for 20 years, you have given him 5 minutes to talk and maybe he has not convinced you in his talking. You want to judge him that with those experience of 20 years this person cannot communicate, are we doing justice to this gentleman? We are not and therefore I want to support and let's move ahead. Thank you.

Hon. Speaker: Hon. Majority leader, you will be last and then the mover will reply.

Hon. Otieno: Thank you, Mr. Speaker for allowing me to also add my voice on this. I am on my feet just to dispel the perception that has been there that now the Ugenya people are not advocating for their people. That is not in order, Mr. Speaker because just as my colleagues had explained, there are time limits of one who was acting in the office of the County Secretary.

The body in charge of the Interim Government had been dissolved, Mr. Speaker. Now that office needs to have somebody in charge. Just as my colleagues have said, our duty in the Committee of Appointment is just vetting. When we vetted, we found that they had the requirements for the position.

I am therefore saying that it isn't wrong if somebody comes to apply for a position in Siaya, be it here or the other

wing of the Government and qualifies. I think if one qualifies to get a position, it should be given on merit and I think this is the case here. I am therefore, Mr. Speaker, supporting the document of the Report on the Committee on Appointment. For us to bring this matter to an end, for us to give Siaya people service.

There was a politician who said at one time that there are times when a County or a Country is bigger than an individual. I am supporting this for somebody not to say that we refused or we denied him chance to give Siaya people service. I am therefore in support that we pass this Report and just as some colleagues had said, we are not letting the bigger issue go but it is the Appointing Authority that also demonstrated by bringing somebody to occupy the position and then at the end of it, the court issue came up, which is above us. The Appointing Authority had shown the intention of giving Ugenya as one. Mr. Speaker, I support this Report.

Hon. Speaker: Hon. Mover to reply.

Hon. Madialo: Thank you, Mr. Speaker. I start by thanking all those who have contributed in this debate. I also wish to ask the Hon. Members to join us in supporting the Report. There are 2 or 3 issues I want to address. One has been answered by Hon. Abayo; permit me to ask my brothers at the Assembly, do you believe that somebody who is a head teacher is a better manager? I wish to remind my colleagues that Elizabeth who was PS for Education came directly from class, teaching in Cambridge High school and she used to operate as a PS.

The Hon. Deputy Speaker noted that there were errors in the Report. I said earlier that I shall not go in the business of

2016 SIAYA COUNTY ASSEMBLY DEBATES

discussing who amongst us was with that same Report and that time we knew it was coming. An example that I could pose to my colleagues, ask yourselves that if somebody has two degrees and is dumb and deaf, do you shoot him down because he cannot answer your questions? So communication cannot be talking to each other. Communication should be viewed in reading and writing and sign language.

I want to add that the County Government Act does not even tell us that the County Secretary will be a good communicator, so look at how you coordinate.

I want to answer the Hon. Pamela Nguire that we would be concerned with age if it was a job that was described as permanent and pensionable but upon questioning, it turned out that this was a contract. So age is not an issue. When it comes to CECM, the Governor has got the liberty to appoint anybody so long as they are in the majority age.

I want to rest my submission by stating that it is true that there are variations between that Report and this other one but there is a disadvantage that my other brothers have and maybe they have not read the Report and the Speaker tried to allude to it but perhaps we didn't pay attention. What we are calling a Report has no decision. And if you read it, you will find that we never made a decision on it.

We returned names to the Governor on this Basis. We want to see the face of Ugenya on what you returned to us. We didn't say suitable and we did not say unsuitable. You cannot anticipate what we were going to say in February 19th, that you can see from the tone of our language that we were going to say, he has communication, he has this, but given that

the yard stick is the following he is suitable, according to the yardstick

I wouldn't know why and I don't mean this in bad faith but we don't have written evidence as to why the other fellow was rejected in Taita Taveta by the Assembly for reasons that we would have rejected. Allow me to sit down and before I sit I plead with you my brothers and sisters those seats are equally very important we want this CECM for Health coordination of Health will be done by the County Secretary. And so you cannot put this one ahead and leave this other one.

Hon. Speaker: Time is up.

Hon: Thank you, Mr. Speaker. I urge you to support.

Hon. Speaker: You urge me to support?

Hon. Madialo: I urge my colleagues to support.

(Question was put and accepted)

(Applause)

Hon. Speaker: Hon. Members good temper is a good attribute of Debate and disagreement has nothing to do with enmity. The positions you took are right within your standards. They are your rights and you should exercise your rights. I just want to plead with you that make sure at all times the integrity of this House is at its par. I also want to urge you sometimes back every time a Committee brings back a Report, debate the Report and on the findings of that Committee, the weight has a bearing also on law.

I was one time so much pained when the Committee of PAC and PIC sat all day long for about a whole month. When they were bringing their Reports in the corridors, people were talking something else. When another Committee

2016 SIAYA COUNTY ASSEMBLY DEBATES

brought a Report here, people talked of something else. When this Committee was bringing a Report, people talked of something else. The problem is when it is reflected out there it is MCAs.

Otherwise thank you for the Debate. Thank you so much.

Next Order!

MOTION

Hon. Speaker: Yes, Hon. Majority Leader.

Hon. Otieno: Thank you, Mr. Speaker, I stand to move a Motion: Pursuant to Standing Order 25(3) which stipulates when the County Assembly is scheduled to adjourn for a day other than the next normal day in accordance with the County Calendar, the leader of majority party shall move a Motion of Adjournment which shall be debated for not more than 2 hours after which the County Assembly shall adjourn without Question put. In this regard, Mr. Speaker, I propose that this House adjourns until Wednesday, 4th of May, 2016 at 9.30 p.m. so as to allow Hon. Members to respond to political responsibility.

I now call a seconder, Hon. Madialo.

Hon. Madialo: Seconded.

Hon. Speaker: Yes, Hon. Booker.

Hon. Minami: Thank you, Mr. Speaker. I think the Majority leader has read the Standing Order. I want to thank him for the action that he has taken. As Members, we know what is ahead of us. It is very important that as Members of the majority party in this Assembly, we should be joining our colleagues across the Country in performing our duty and our constitutional function of protecting the Constitution of this Country. I want to say

that I support the Motion that we adjourn up to Wednesday next week. Thank You.

Hon. Speaker: There being no contribution, would you be up standing for adjournment.

(Members stood for adjournment)

There being no any other business this House adjourns until Wednesday, 4th May, 2016 at 9.30 a.m. in the Chambers. You realize it is 9.30 a.m. because we reviewed our Standing Orders.

The House rose at 5.48p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 4TH MAY, 2016

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

[The Temporary Speaker (Hon. Abayo) in the Chair]

PRAYER

PAPER

REPORT OF THE HEALTH COMMITTEE ON
PAYMENT OF NHIF AND STIPEND TO
COMMUNITY HEALTH WORKERS

Hon. Were: Mr. Temporary Speaker, Sir, allow me to table a report of the Committee on Health Services on payment of NHIF and stipend to Community Health Workers this morning.
(Hon. Were laid the document on the Table)

NOTICE OF MOTION

REPORT OF THE HEALTH COMMITTEE ON
PAYMENT OF NHIF AND STIPEND TO
COMMUNITY HEALTH WORKERS

Hon. Were: Mr. Temporary Speaker, Sir, I wish to give notice of the following Motion:-

THAT, this House adopts the Report of the Committee on Health Services on payment of NHIF and stipend to Community Health Workers, laid on the Table of the House this morning.

MOTION

REPORT OF THE HEALTH COMMITTEE ON
PAYMENT OF NHIF AND STIPEND TO
COMMUNITY HEALTH WORKERS

The Temporary Speaker (Hon. Abayo): Hon. Members, I wish to state that we shall suspend Motion No. 8 and discuss it later in the afternoon and that we

proceed to Order No. 9. Chair, Health Services!

Hon. Were: Thank you, Mr. Temporary Speaker, Sir. On behalf of Members of the Committee on Health Services inquiring into the delayed NHIF cover and payment of stipend to Community Health Volunteers by the County Government of Siaya, I am pleased to present this Report to this Hon. House.

On 13th October 2015, the County Assembly received a Statement request from Hon. Jared Abayo – MCA, West Gem Ward seeking to know what causes the delay in the provision of the health insurance facility and payment of stipend to Community Health Volunteers (CHVs), the strategies in place to ensure such payments are fast tracked and how the Department of Health Services intends to cover for the period the CHVs have been struggling without NHIF cover and stipend.

Due to inadequate funds, the Committee had to sample two Sub Counties and therefore decided on Gem and Rarieda. The Committee held a total of five (5) meetings, engaged the Chief Officer Health Services, the CEC Member Finance, CHVs in Rarieda and Gem Sub Counties in an attempt to unravel the cause of the delayed payments of stipend and NHIF to CHVs.

SUMMARY OF FINDINGS

A key finding of the Committee was that there was no clear reason as to why the payment of Community Health Volunteers was delayed. The Department

2016 SIAYA COUNTY ASSEMBLY DEBATES

of Finance and Department of Health were clearly shifting blames.

The Committee Mandate is there as per the Standing Order No. 192.

ACKNOWLEDGEMENT

I wish to record the Committee's gratitude to the House for having entrusted us with the execution of the important duty of contributing to the efforts of improving provision of Health Services in Siaya County. The Committee is thankful to the entire Membership for their dedication and commitment during the fact finding and deliberations that made this report a reality. The Committee thanks the office of the Assembly Clerk for related facilitations and our Clerk Assistant for ably coordinating the investigations and report writing activity.

The Temporary Speaker, Sir, it is now my pleasant duty, on behalf of the Committee on Health Services to present this Report for immediate consideration and adoption by the House. The Committee prays that this Hon. House adopts the recommendations proposed in this report.

SUBMISSIONS FROM CHVs GEM SUB COUNTY

- Gem Sub County has 38 Community Units with 338 CHVs.
- The stipend paid is Kshs. 2000; however the amount is paid quarterly and is very inconsistent.
- The last payment was for quarter one i.e. June, July and August 2015 but some people did not get and their names were forwarded but they have not received their payments.
- The CHVs requested for an increment of Kshs. 8000 since they

are on call 24hrs and some CHVs are covering up to 100 households and are expected to report accurately and on time. They are not provided with airtime yet most alerts come through the phone.

- All the reporting tools have been provided yet the requisite drugs for basic health care e.g. Malaria drugs are not given to them.
- NHIF has not been effected and hospitals not yet assigned. Registration Forms were filled on 15/08/2014 and no communication has followed since then.
- The CHVs are frustrated and some are contemplating quitting and whenever they raise issues, they are told to go ahead.
- They have only ORS + Zinc from MOH. No drugs have been given.
- An MoU was signed between the County Government and the Millennium Development Program and the County Government was to continue with the work Millennium was doing which has not been the case.
- CHVs have all the data in the Community and can be used to even conduct National census.

CHVs REQUIREMENTS

ACT, Gloves, paracetamol, cotton, spirit, thermometer among others.

The following CHVs have not received their stipend. Their names were forwarded but no action had been taken at the time of the Committee visit. The names are as hereunder.

SUBMISSION FROM CHVs RARIEDA SUB COUNTY

2016 SIAYA COUNTY ASSEMBLY DEBATES

- The stipend paid is Kshs. 2000; however the amount is paid quarterly and is consistent.
- The last payment was for quarter one i.e. June, July and August 2015 but some people did not get and their names were forwarded but they have not received their payments.
- The CHVs requested for an increment of Kshs. 8000 since they are on call 24hrs and some CHVs are covering up to 100 households and are expected to report accurately and on time.
- All reporting tools have been provided but there are no drugs for basic health care e.g. Malaria drugs.
- NHIF deductions have not been effected and hospitals not yet assigned but registration forms were filled in 2014 and no communication has followed since then. Bed bugs have infested K'obong and Kamariga Community Units but there are no resources to counter the menace. The matter has been raised in various stakeholders but no help has been forthcoming. Masala Health Centre should be upgraded to a dispensary.
- Masala Health Centre is high volume and requires upgrading.

SUBMISSIONS FROM THE CHIEF OFFICER OF HEALTH

Mr. Temporary Speaker, Sir, the budget for the Health sector 2015/2016 provides for an amount of Kshs. 51,552,000 in respect of payment to stipends for the Community Health Volunteers. The Department vide letter

dated 22nd July, 2015 and 21st September, 2015

requested for funds for its operations, including an amount of Kshs. 12,888,000 and Kshs. 25,776,000 for stipends for first and second quarter respectively.

The funds for stipends were not provided and therefore the Department on 22nd October, 2015 made a request for authority to borrow funds to the tune of Kshs. 25,776,000 to be utilized to pay stipends for first and second quarters for the six Sub Counties. The payment vouchers were taken to the County Treasury on the 27th October, 2015.

Rarieda Sub County stipends were returned to the Department for correction on 17th November, 2015 but the five Sub Counties payment vouchers are at the vote book section in Finance awaiting processing.

SUBMISSIONS FROM THE CEC MEMBER FINANCE

Mr. Temporary Speaker, Sir, the Committee met the CEC Member for Finance twice. In respect to the above submissions by the Chief Officer Health, the Chief Officer Finance submitted to the Committee as follows;

- County Health Department made a request to borrow funds worth Kshs. 30,000,000 to enable them to pay Community Health Volunteers. However, they used a wrong template for the request and were advised to use the correct one.
- The correct template from the Department of Health was submitted to their office on 23rd November, 2015 and approved on 25th November, 2015. They confirmed that the payment has

2016 SIAYA COUNTY ASSEMBLY DEBATES

since been processed and is at the last stage of payment.

In the second meeting, the CEC Member submitted a Report to the Committee and explained the following;

- The Health Department has sent a soft copy of the details of all the CHVs to NHIF and all the CHVs will be registered by mid-April after which the payment will be backdated to allow the CHVs use the cards.
 - Unforeseen liquidity, poor internet connectivity and late submission of CHVs list to County Treasury are the major causes of delayed payments.
 - CHVs that miss their payments submitted wrong bank account details or at times change their bank details without notifying both the County Office and the bank.
 - The Department of Health has been advised to be forwarding payment schedules of CHVs to the Finance office on a monthly basis
- COMMITTEE OBSERVATIONS**
- Community Health Volunteers offer very crucial services to the residents of Siaya County such that a wrong requisition template should not be a reason to delay their stipend. This was a clear show of inefficiency and non-commitment from the Department of Health.
 - The information from the Department of Health and Department of Finance were conflicting thus showing noncooperation and team work between the two Departments.

- The CHVs are so demoralized because of delayed payments and lack of essential working tools.
- The CHVs concerns are never taken seriously because whenever they air their grievances, they are dared to quit, which is extremely unacceptable.
- The CHVs have since been paid their dues till February 2016

COMMITTEE

RECOMMENDATIONS

- The Department of Health should be forwarded the necessary documentations to finance them on time to facilitate monthly payment of stipend to CHVs with immediate effect.
- All the CHVs who have not been issued with their NHIF deductions updated and remitted to enable them use the cards.
- The Department of Health should with immediate effect develop a proper communication channel with the CHVs and organize for meeting quarterly to listen to their experiences and challenges.
- The Department of Health should in 30 days' supply CHVs with all the materials and drugs they need to carry out their duties effectively and with ease.
- The Department of Health should conduct a reconnaissance of the areas infested by jigger and bedbugs in thirty days and budget for bedbugs and jigger eradication in FY 2016/2017.
- Masala Health center be surveyed in 60 days and if the volume of the facility necessitates upgrading then the process should commence.

2016 SIAYA COUNTY ASSEMBLY DEBATES

- The Department of Health should be conversant with all the procedures of the County Government to avoid inconveniencing workers.
- The Department of Health should develop a policy document for engagement with the CHVs in 90 days.

Attached are various documents for your perusal. I request Hon. Murray Asewe to
Second, thank you.

Hon. Asewe: Mr. Temporary Speaker, may I stand to second.

The Temporary Speaker (Hon. Abayo): Hon. Members, I wish to propose the question that this House adopts the Report of the Committee on Health Services on the payment of NHIF and stipend to Community Health Workers, laid on the Table of this House on Tuesday 1st December, 2015. Yes, Hon. Muhulah!

Hon. Muhulah: Thank you, Mr. Temporary Speaker, Sir. I must applaud the Committee on Health under the stewardship of one, Hon. Ayima Were. I have never known that he can come up with a very good Report...

(Laughter)

The Temporary Speaker (Hon. Abayo): Hon. Muhulah, you are out of order, can you get to the Report!

(Laughter)

Hon. Muhulah: Mr. Temporary Speaker, Sir, I want to bring to the attention of this House the chronology of the Community Health Workers. This group that has done a tremendous work, more so in the County Government of

Siaya, started before the inception of the County Government. You recall when we were given a task of being the heads of the Ad Hoc Committee on Health Delivery, you happened to have been my Vice Chair. When we went round, we found out that the Community Health Workers; in terms of supplementing the duties of the Health workers in this County they were taking the center stage.

This Community, however much they are doing the very big part of work and we have seen the reduction in terms of child mortality, in terms of HIV, in terms of PMC, in terms of decrease in malaria and it is confirmed that recent index showed that malaria defect in Siaya was actually dropping from 34% to almost 15%, that one should be commended on health performance of the Community Health Workers in this County.

Mr. Temporary Speaker, Sir, It is very evident that bigger population of the Community Health Workers in this County is women and they actually do not have any financial capacity that can enable them sustain working without a token at all. Let us look at the economic disadvantage that is facing the entire Kenyans, what can Kshs. 2000 do as at today? It is very unfortunate, very unfortunate that within this Report, there is somewhere where it is indicated that a voucher that is supposed to be paying the Community Health Worker, has stayed in the Accounts from November to date, while this House knows very well, has an evident that recently, transferring 92 million shillings from Health to the Governor's Office took only a minute, where is our preference? ---can take six months for their payment to be approved but monies that is transferred from Health, a very critical sector that is actually underfunded can take a minute to be

2016 SIAYA COUNTY ASSEMBLY DEBATES

transferred to go to Executive to finance accommodation and allowance payment.

Mr. Temporary Speaker, Sir, it is regrettable, we sat in the Budget, approved the payment of these stipends. I would also want to introduce one issue here, in the same Health sector again, in the cleansing department, that is of Public Health, again the same thing happened to CHVs and the same thing happened to the cleaners, that the payment, nobody wants to bother, where a stipend that is supposed to be budgeted to be paid to a Community Health Worker takes more than 4/5 months before it is paid when the money is budgeted and is there.

What is the intention of this; that these people should actually forget that money or say that they are volunteering, however much they have put much effort to this or should they withdraw? On top of that, the path that has always been helping in subsidies of Community Health Workers was ICAP, which again we evidently saw that 90% of Health Staff in Siaya County were being funded by ICAP.

Now, how much is the Siaya County Government going to be relying on the development partners without coming up with clear policies on how they want to manage their Health sector? This is one issue that this House must take very seriously, the House has just received a draft, financial draft for the year 2016/2017, and I want to urge this House that lets take it as a principle that we must ensure that we get good funding for the Community Health Workers and possibly I would again urge this House, to support the increase of the stipend from Kshs. 2000 to possibly Kshs. 5000, to enable these people deliver the work that they feel they are working in the best way for the

sacrifice in terms of the Health Sector in Siaya.

Mr. Temporary Speaker, Sir, I stand to support this Report, thank you.

The Temporary Speaker (Hon. Abayo): Yes, Hon. Minami!

Hon. Minami: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to contribute to the Motion. First, I want to thank the Committee of Health for the work they have done and I think this Report is quite overdue. I also want to thank the Member who asked this question whom I believe is currently sitting on the Speaker's Chair.

It has made us know the rot in the Health Department and I want us to start with the Assembly; when you look at the list of Membership, you see number one, Vice Chairman, which means that this Committee still doesn't have a substantive Chairperson from December. So, to correct things, let this Committee elect a Chairperson, we don't want the issue of Vice Chairman, so that we can have somebody who is taking charge of the affairs of this Committee.

Number two, the County Government of Siaya, is a Government that is not concerned with the welfare of its people. Community Health Workers are primary health care givers in the villages where I come from, and for any Government which does not take into consideration the welfare, the importance, the people play in the overall health care system in this County, which is a Government that doesn't care about the health of its own people. This County has been having several cases of cholera outbreaks in the past 6 or 7 months. The first people who would have detected and even helped in stopping the spread of

2016 SIAYA COUNTY ASSEMBLY DEBATES

cholera in this County are the Community Health Workers.

These people, according to the Report of the Committee, are not given the right equipment to do their work. The Committee has enumerated the issues of the Health Care Workers from Gem Sub County, before the County Government came into being, part of Gem Sub County had a programme run by Millennium Villages project and one of the key sectors that was well managed during that programme was the health sector and it was well managed because the project had recruited Community Health Workers and these Community Health Workers had been provided with all the important things that could help in detecting and even solving some health implications without even referring a patient to a Health Centre. Those things are now over.

Millennium Villages left a very good structure, they gave the County Government a good policy and if that policy would have been followed the way Millennium used to follow it, then the County Government of Siaya would have had the best model in the whole of this Country. I want to tell you Mr. Temporary Speaker, the model that --- used was a model that the National Government was now following across the Country. I am wondering, what is wrong with the County Government?

A Government that some of us defend as if they are going to die if that Government does not exist! Some of us defend this Government yet the people whom they represent are dying of cholera! Some of us defend this Government as if their lives depend on this Government. This is a Government that does not care about what is going on in the Health Sector. Hon. Muhulah has just

enumerated here how the Executive could transfer Kshs. 92 million from the Health Sector to the Imp rest Account where somebody could just go and put a finger and take 10, 12, 15 million for usage that are not of benefit to the County of Siaya. As a House, we cannot sit here and continue debating, as a House, we cannot sit here, and some of us continue supporting a Government that does not support the rest of our people.

I want to urge my colleagues that if you know you came here for a purpose and the purpose is to represent your people, you have to stand against this Government that is out to finish our people.

(Applause)

Mr. Temporary Speaker, Sir, Health is a devolved function to the level of level 4 or level 5 hospitals which are within this County. So, as a County we don't have any excuse that this function has been left to the National Government. This is the Department that is usually bogged down by calamities; either the CEC is dead, or is being sacked. Currently the CEC docket has been given to somebody. We want to say that the issue of Community Health Workers must be looked into very seriously and it is true, there is no way that somebody is able to approve an illegal imp rest when something that is legally in our budget, somebody cannot approve.

Right now, Community Health Workers have only been paid one month out of the last three months, a payment of only Kshs. 2000. I am wondering if that will be the trend going forward especially when we are going to the issues of the next general elections. What is going to happen to our people? I think as a House, we must

2016 SIAYA COUNTY ASSEMBLY DEBATES

stand very firm; we must demand for quick interventions.

We have seen the recommendations of the Committee and I think that it would be very important that as a House we be very serious especially on the issue of health. It is so shameful that malaria in this day and age can still kill our people, malaria which has got drugs that the County Government of Siaya is not able to procure malaria drugs and you find our people dying because there were no drugs in hospitals. I wonder how sometimes our colleagues say that the Government is working! The Government cannot be working when the health care system of the mothers whom we represent is not working; our mothers are dying every now and then when they are giving birth.

The other day, in Alego, a mother almost died when she gave birth to triplets because the basic care that she was supposed to get was not there! Also, we had patients who died here because of the negligence, because of an I don't care attitude that is within the officers who are employed by the County Government. An emergency has occurred, people have been rushed to the hospital but the nurses don't care, they tell patients, "We have seen so many accidents and you are not the first one." It is very painful and I want to challenge my colleagues who always make noise about the workings of the County Government, which sector is this County Government working on that you can point and say, yes indeed this sector is working?

The Temporary Speaker (Hon. Abayo): Hon. Booker, summarize!

Hon. Minami: Mr. Temporary Speaker, Sir, as I summarize, I want to say that the issue of NHIF, where money is deducted from the Kshs. 2,000 or

whichever money is supposed to be paid by the County Government on behalf of the Community Health Workers is something that we cannot sit back and watch as money is deducted or money is supposed to be remitted to the NHIF and is not done. Somebody must be held accountable, whether it is the Health Department or the Finance Department, somebody must be held accountable because we cannot put the lives of our people in limbo because somebody somewhere doesn't care. I stand to support the Report, thank you.

The Temporary Speaker (Hon. Abayo): Hon. Andiego!

Hon. Andiego: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I am on my feet to support this Report. It is sad, just as has been mentioned by Hon. Booker, at times you fail to understand whether we have a Government or we have a team player who is just seated somewhere and spectate what is taking place in this County.

At times we always say that, a good thing remains good whether done by an enemy and a bad thing will remain bad whether done by a friend!

Whenever the Executive does something which we feel is wrong, we shall always tell them that this is wrong and if they have done well, we must also agree with them. Community Health Workers are doing a tremendous job in this County, and as they are called volunteers, they volunteer to an extent that they do more than those who are employed and get a big chunk of money in terms of salaries cannot do anything good and I believe that it should be vise visa.

The Kshs. 2,000 meant for the CHWs should be given to those who believe that they are learned and sit

comfortably in hospitals. These are people who do not have time for their work, they are woken up at the middle of the night, some move, more particularly where I come from; the Island of Lake Victoria, the volunteers wake up at midnight, crossing the Lake with a pregnant mother who is due to deliver despite the dangers of the night and here comes 9 months, 7 months without pay that is meant for them.

Indeed, it demoralizes the good will that these people have. If it is true that the Government and this Assembly approves some little amount to be given as stipend, I feel so much pain that someone who is getting a big salary is still going with this money, eating the money for 7/8 months without paying the volunteers. It is on this note that this Assembly should stand firm. My problem is that, if we pass this report, it ends in this Assembly and immediately it leaves this red carpet, nothing comes forth and therefore we become useless as an Assembly.

If a Report of this kind has come, I don't know whether there should be a creation of a committee immediately to follow up the Report to get that it is implemented because I am sure where we sit today, the Reports that we passed the other years, in January this year, are just there. This is when you will find the boss, in the name of the Governor, walking and stamping his chest that that is just as they are saying and nothing happens. We need to be respected because even as Members of the Assembly, we spend a lot of money in Committees to come up with such Reports and if the reports are thrown in dustbins then it means we are doing nothing.

Thank you, Mr. Temporary Speaker, Sir, and I support.

The Temporary Speaker (Hon. Abayo): Hon. Agoko!

Hon. Agoko: Thank you, I rise to support this Report and therefore take the opportunity to congratulate the Committee for the good work they have done. I just wanted to add that Hon. Andiego has left some amendments hanging where he proposed that the Report be amended to capture part of recommendations rather than the resolutions that the CHVs be paid Kshs. 8,000, I therefore wish to second.

The Temporary Speaker (Hon. Abayo): Hon. Agoko you are seconding what has not been proposed and if you want to make any amendments then you need to prepare to make the amendments and again it will need to be seconded and this House needs to approve it. So as you continue, put your facts right and take care of the due process.

Hon. Agoko: Thank you, I therefore wish to propose an amendment that the CHWs be paid Kshs. 8,000 on a monthly basis, inclusive of NHIF contributions and on that level I would like to request Hon. Andiego to second.

The Temporary Speaker (Hon. Abayo.): Hon. Andiego do you second?

Hon. Andiego: Yes, I rise to second. Thank you, I want to say that the C.H.Ws do a lot of work and I want to give a case study of Sidindi Ward where there was infestation of jiggers and because there were no drugs, there were no programs to work on the same. I only went around buying the drugs and the C.H.Ws moved from door to door treating legitimate jigger infested persons in their Houses.

This is a big duty they do; they take high risks and went as far as cleaning the Houses of the infested people and with the magnitude of risk they take, it's

2016 SIAYA COUNTY ASSEMBLY DEBATES

paramount that they be paid a reasonable stipend. Therefore, NHIF is paramount and it's in this Report that the finance Department indicated that the Kshs.1,500 for NHIF is not included in the Kshs. 2,000 stipend and I want to say that this should be fast tracked.

Again, a key resolution that I earlier suggested is that we need to have policy guidelines on this to ensure that they are operating within a policy. The lives of these people are at risk and they are highly exposed because they directly handle the patients, hence their level of exposure to risks is very high. We need to appreciate them, we need to reward them, we need to take good care of them and they should have a fall back which is the NHIF. I rise to support this Report and urge the House to ensure implementation of the same.

The Temporary Speaker (Hon. Abayo): Hon. Pamela Nguni!

Hon. Nguni: Thank you, Mr. Speaker, Sir. I also rise to support the Report, any government is responsible for its people and the responsibilities imply in my view, that the most important and primary responsibility of any government is to take care of the health of its people. There is no reason imagining that a child needs Education while it's only a healthy child that will need Education and if we do not take care of the mother and therefore not taking care of the child, even that Education is not important for this child.

The communities Health Workers are the people who deal with primary health and are the same people who take care of these mothers and their little ones in the Villages, therefore taking care of everybody. When you fall sick, there are the first people you interact with particularly in our villages and if these

people lack all these, I do not understand how therefore they can perform their duties, if even themselves are not able to access the health care and if they should fall sick and need medical attention they don't even have NHIF cards which they were told that the government would take care and has not yet been done.

Each time someone falls sick, you have to run around and see how they will be taken care of. We need to be more serious, we need to be more considerate and we need to take care of our lot because if we don't, even sitting here as an Assembly, what shall we be doing? We are not sitting here to buy coffins; we are not sitting here to look after miserable people; people who are sick and are not taken care of properly.

Things like drugs, in the past we cried because we had no drugs in our hospitals as well as health centers and clinics. When we started I think taking off was quite impressive. I personally had an opportunity to visit some of these Sub County Hospitals, may be most Health centers and it was a very great improvement to me. How come there is so much out cry about drugs missing in the hospitals? How come that the people who are supposed to take care of the sick in these health centers and hospitals are not being taken care of?

We must insist that this be done, that tools alone given to these workers will not help them if the drugs are not there and they themselves are taken care of when they are unwell, only then will we be considered as a government which is taking care of their people. Otherwise I want to support this Report because it's very important and it is necessary that issues of health care are taken care of seriously because it's only a healthy

person who can carry on whatever responsibility that are therein. I support this Report.

The Temporary Speaker (Hon. Abayo): Hon Aneme!

Hon. Aneme: Thank you, Mr. Speaker, Sir, for giving me this chance to support the Report, but I also have some observations to make. When the issue of CHWs was raised, truly it was so painful that when the red flag was raised on 13th October, 2015, it is only now that we are able to receive a Report. It has been a period of 7 months and when the issue was raised, there were already sufferings from June 2015, so from then up to date, it has been a period of 11 months which has not been factored here. A group of people who are offering the kind of services that the health workers provide without earning for a whole year is a total punishment to them.

My concerns are that I would want to know the portion of payment to these people to date. I also would want to know the position of their inclusion in NHIF kit, because if you look at the reasons that the CEC was giving as a response to the letter dated 18th from Assembly, he stated that poor internet connectivity, unforeseen circumstances and the delay of list to the treasury as the reason to delayed payment while the reasons that he gave to this House at best are not convincing at all and cannot be pegged as the best reason when there is no poor connectivity to prevent them from scooping 92 million from that account.

When they need money for their own use, the internet connectivity is super; the delay is not there as well as the unforeseen circumstances which are not avoidable. But when it comes to paying of services to people who are suffering and spending their nights with our patients,

money is not available. So am rubbishing all these answers that we were given in a letter dated 13th from the Assembly. What I would also want us to conclude in this Debate as we support the Report is that we call the CEC Finance and CEC Health to come to this Assembly and give us the position up to date.

These people have not earned up to date as we talk about their issues here, we have them in Bondo here and even yesterday I was in Bondo District Hospital. What these people are bearing you and the next situation is--- what is our position, where is our case? So it's very painful that these people have not been paid from June, 2015 to April, 2016 and therefore I would want us to request these people to come to this Assembly and tell us their position. If not, then we better take another direction to deal with this issue. Thank you.

(Applause)

Hon. Osuri: Thank you, I am on my feet to support this Report and commend the Committee on the good work that they have done. The kind of frustration that has been given to the CHWs is the worst in this time of Devolution in the Health sector considering that they are the people at the grass root and do most of the donkey work; in fact the Kshs. 2,000 they are given should not be termed as payment but a token.

I do support this document because if you see the kind of work these people undertake at the grass root, you will see that they need protective gears like rain coats, spotlights, gumboots; especially in the rainy seasons and at night. If you see the Committee's recommendations as stipulated, particularly the meager pay and

the amount of money that is deducted from their salary, yet not remitted to NHIF.

This brings a lot of frustrations to them as they are heavily burdened such that it is even difficult for them to take their children as well as family to Hospital. We would wish as said by most members that the welfare of these people should be looked into, in fact if we compare the pay of Kshs. 10,000 that we gave to the ECDE teachers and the kind of work CHWs do, then we again deduct their money! I don't mean that ECDE teachers are not doing a good job, but if we compare with the Kshs. 2,000 that is like being given nothing. As a House we had passed and allocated large chunks of money in the budget to the tune of 8 million/ 51 million, so we would like to know how much has been used on these people and what the balance is being used for in those areas. This is very critical as a follow up from this House, otherwise I support the document.

Hon. Apiyo: Thank you, I stand to support this Report. My contribution would be based on the recommendation and observation of the Committee.

If you take Masala Health center for instance, one would wonder why this facility has never been upgraded, while the number of patients going to the facility is terrible. To the Chair, this facility must be up graded in 30 days not even 60 days. When it comes to the issue of CHWs it's upon this House to stand and speak the truth, there is one individual CEC Finance called Mr. Ombogo, who must be sent Home and I want to assure this hon. House that without sending Mr. Ombogo Home, things will be terrible, and people will challenge this House---It is this

man who is frustrating the Governor as well as the implementation in Siaya as we cannot implement anything without money.

Look at this Report and am sure that even after 30 or 90 days, nothing will be done. I want to concur with my able colleague, Hon. Aneme that this person be called and appear before this House and answer these questions directly, why he is frustrating the CHWs while just us as members can use almost Kshs. 3,000 on credit in a day. What of Kshs. 2,000 paid to CHWs? Up to February this year the CHWs have not been paid their dues while we sit here as a House and clap that the Governor is at work together with his I don't not even how to describe Mr. Ombogo.

This is frustrating these people and as we know it, payment comes first before the work. I don't want to contribute too much but I shall just say that the CECM Finance, Mr. Ombogo and CECM Health must come before this House and answer directly. I support this Report.

The Temporary Speaker
(Hon. Abayo): Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Speaker, Sir. while you are on the Chair, I want to be on record that this Report meets the threshold of public expectation and must be supported in its entirety. One observation I have made while contributing is that the speakers before me spoke perfectly well and I just want to remind the Executive,

2016 SIAYA COUNTY ASSEMBLY DEBATES

since the Governor is the CEO of the County; that withholding statutory deduction of the owner of NHIF is a crime of negligence and going by the sums involved, it's also an economical crime. Statutory deduction in Law and regulation pertaining to NHIF require that the returns are done not only monthly but in time.

This is because falling sick does not give notice and it's common knowledge that when you fall sick, the first requirement is to produce the NHIF card and then see if you remit your returns so that they can take care of other policies, for member or if they can pay in cash. Then it means failing to remit timely such reduction that affects the nurses as well as other County staffs. The County Government is doing disservice to the people; hence our people can find their way to eternity prematurely.

in Annual Fiscal Strategy paper and finally the Budget Bill which we passed without an amendment has to be adhered to not only in the process of ensuring that we have funds but also their use should be effective.

The County Government Executive must plan to be using those finances timely. This, we must underscore, as our bothers have put it. Now the Governor is in Singapore. I am very happy that we were in the Senate last week Wednesday and the Senate spoke for 50 minutes engaging Siaya County Assembly and Vihiga County Assembly that we are steadfast. Even my committee on implementation is doing well and they were very clear. Even the issue of Devolution Day.

In County Governments, without the Assembly, there will be no devolution so the hand of the Assembly has to be furthered by the Executive in so far as implementation of Budget is concerned. It should be taken such that when we approve things it has to be the way we approved. The spirit and the letter must go hand in hand.

So when it comes to other expenditures which are not in the expectations of the local public, money is available. When it comes to the deliverables as sanctioned by the Floor of the House, then it is political financial for the political policy governing the use of the money rather than the actual availability of the money. In this case there is money but they are not ready to use it. We warn the Executive that they stick to the scope of the approvals by the Assembly.

Point number 4, recommendation. The Department of Health should in 30 days' time supply CHV's with all materials and drugs they need to carry out their duties effectively. Mr. Temporary Speaker, in 2015/2016, Central Alego that I represent consisting of 94 Community Health Workers, the nomenclature has been changed; they are calling them volunteers. The public of Central Alego in 2015/2016 had put an allocating after having consulted the recently served CCM on Health Mr. Owila, the current Director of Health and the current Chief Officer with consultations and we put up a budget so that what is expressed in 4, Central Alego becomes unique.

I heard Hon. Osuri for South East Alego talk about that Ward, we allocate money, we had laid a budget so that the 94 CHV's are given materials like cloths, pharmaceuticals, gloves, drugs, the digital

thermometer; so that if drugs and other materials are not in our clinics and Health centers, communities can get them expressly from the village health workers. Antibiotics, drugs, chemicals are required to disinfect water to negate the spread of Cholera.

We can see here they are yet to implement that Budget and the Financial Year is ending. That is in the scope of the Annual Development Plan and the County Fiscal Strategy Paper. County Government especially the Executive will only find its relevance and the reason for being if they go by those statutory documents having been approved by the Assembly. The Governor, you are sleeping on the job, wake up. I support.

The Temporary Speaker (Hon. Abayo): Hon Augo!

Hon. Augo: Thank you, Mr. Speaker, Sir, for giving me this chance. First of all I would like to congratulate our Committee of Health for a good Report and commend the Committee Members for the good work. I would also like to support this Report as my fellow Hon. Members have said, these Community Health Volunteers are really doing a good job for us at the grassroots.

What I wanted to say is that when you read the Committee observations, number 5 is that the CHVs have been paid their dues till February 2016. I just want to remind the Hon. Members that in our findings you find that they have been paid. We find out that in this Department of Health we really have a problem.

Here is a Department where you can call the CEC and write to him severally without even attending the Committee meeting. This is why there has been delay in this Report and I also would like to recommend as our Hon. Members

have said, that we need the CEC for Health and Finance to come to this House. You find that in all this, the problem starts by the CEC Finance. When you call the Director, he will tell you that the problem is with the Finance. Anybody in the Committee will tell you that the buck stops with the Finance.

Mr. Temporary Speaker, Sir, as I speak, yesterday I was in Bondo Hospital; I found that there is a new x-ray machine which could not function because they didn't have the negatives. They have to ferry the patients to Kisumu because the Siaya one is not working. You find all the ambulances on the way to Kisumu

I went to the Hospital to find out if they had an emergency. I thought it was an emergency of the rains which currently is overflowing the West Yimbo Ward, but I found that it was the problem of the x-ray. Just x-ray! When I inquired, they said that they had requisitioned but nothing had been done. I had to search for the number of the Chief Officer in Charge. He said that he was not aware of the problem. The Chief Officer confirmed that they had requested but nothing had been done.

Mr. Temporary Speaker, Sir, something is wrong in this Department and it is the one that has been given a lot of money. Something has to be done in the Health Sector otherwise our people are going to die. Even if we renovate big hospitals everywhere, that won't help. How can you renovate a house yet you have not taken care of the health of the people who are going to live there?

Mr. Temporary Speaker, Sir, I remember burying our people every day and even the management of Jaramogi Oginga Odinga Hospital is saying that Siaya people are giving them a lot of problems by ferrying patients all the time

and yet they have money for their Health Sector. Something has to be done in this sector and I recommend that the CEC for Health and the CEC Finance must come to this House and even our Committee we are almost bringing a Motion and that we should debate it. CEC Finance must come into this House. Thank you, Mr.

Temporary Speaker, Sir.

The Temporary Speaker (Hon. Abayo): Hon. Ndonji!

Hon. Ndonji: Thank you, Mr. Temporary Speaker, Sir. I want to first express my support for this Report. The Report came at a good time because this morning some CHVs from my Ward called me and they were asking about their stipends.

They were saying that even when they are paid, there are some deductions that are normally done on this stipend of about Kshs.300. I heard about the issue and just guessed it was NHIF because we are aware that the amount that these people are giving is not supposed to be taxed at all, hence my guess of NHIF.

I want to say that all statutory deductions that are normally made should be done in good time. There is no excuse such that even if you miss your pay, that one has to be deducted in good time. For somebody to know that they are covered by NHIF, that card should be there because you cannot access these services if you don't have that card.

I happen to be coming from a Ward that is so much inadequate in terms of health facilities and we know the importance of these CHV's. Just as they demanded they need to have basic drugs that are going to help them help our people. You will find that the people who are sitting on this have got insurance and they go to hospitals that these people can't

access, so I don't see the difficulty giving these people their cut so that they can be getting the services.

Going through this letter that was written to the County Assembly, number 2 talks about the reasons for delayed payment of stipend to CHVs and it says that the County Treasury always ensures prompt payment of CHVs. That the occasional delays are purely as a result of unforeseen liquidity problems. There are no intentional delays.

These delays are continuous. So when somebody says occasional, unless I don't understand English. When we talk about occasional, it means that it is only a few occasions that there are these delays. We know that this is a perennial problem and it should be addressed. This means that this letter was not written with sincerity but for purposes of defense.

From what we can hear, there is contradiction between what the CECM Finance has been talking about and what the CECM Health has been talking about. For that reason, sir, though people have been saying these two should be coming here. Probably this might come at another level though I tend to think that the CECM Finance, if we go through the PAC and PIC Report that was passed in this Assembly, is not even supposed to be in that office as we speak. So, I don't understand if the Executive cannot be following the law and implementing what has been passed in the Assembly then even this Report that we are having here is a Report in futility.

I conclude by saying that as this Report is being passed, let us also rise and see what should be done in the previous Reports that were taken to the Executive and implementation has not taken place. Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Hon. Abayo): Hon. Kawuor!

Hon. Awuor: Thank you, Mr. Temporary Speaker, Sir. I want to support this Report and to appreciate the Committee's work, belatedly. Mr. Temporary Speaker, Sir, a lot has been said. Allow me just to say a few things that I have observed.

Two or three days ago, I was in my Ward. I went to see my son with my former colleagues. One was a colleague who was here, called Aluoro Charles who was hospitalized. He represented North Alego. The second one is former Councilor Paul Washilu who was the vice chairman of Yala Town Council.

If you experience the situation in the Hospital, you can't believe that that is a Level 4 Hospital. The issues that have been raised here are so important and should not be taken lightly.

I want to say that the Committee really tried to dwell on them. I want to thank this House from the onset for their work.

Yesterday I gave leave to one of the CHVs and he gave me a pat on the back saying that I had made them to be paid. He went and checked if at all he could access treatment from the Hospital. So he went to NHIF through the system and said we paid up to June, I think that is an effort to this Assembly and I want to really thank the Chair of the Committee because if it were not for what you have done and calling those people before your Committees, I don't think that this could have been possible.

So, I want from the onset to thank you and I want to urge the House that let us do our part as per our mandate. We are a Government; the County Government belongs to both of us. So when the Executive messes we just point this is

where the problem is and if we stay in this Government then we are part and parcel of that Government. That is what we have to clarify when we are speaking here, we are the Assembly side and we are in the County Government of Siaya. The problem that we have is in a section of the Executive and we must point out those issues.

Mr. Temporary Speaker, What I learnt and is real; we are talking about attitudes. There have been a lot of problems when it comes to promotion. You are promoted according to where you come from and where you belong to. So this has put staff in a very bad situation, Mr. Temporary Speaker, Sir. It is an issue that the Committee and we as the Assembly need to look at all the issues very seriously.

The issue of promotion; some of the staff are very senior and have stagnated in job groups while newly employed staff are given higher ranks because they come from this particular place. These are issues that as Assembly that represents the people we must come up very strongly and say no. It has to be corrected.

I happened to have shared CDF with my Constituents and during that time there was an Economics Stimulus program which met some of the staff employed under the program, some of the nurses employed under that program. To date the County Government has not employed those staff who were employed and qualified in this program.

The Temporary Speaker (Hon. Abayo): Hon. K'awuor, please stick yourself to the Report being discussed!

Hon. Awuor: Thank you, Mr. Temporary Speaker, Sir. We are talking about a Report on CHW and I am saying that if things are good there then down

here as well. We should also look at what happens at the sub county Hospitals. The Millennium Village Project that the son of my in-law was talking about here was started within my village. He has said a lot of things that I would have said. If it is replicated in this County, I think Siaya will be the best.

The Millennium Village Project just gave the CHVs only Kshs. 4,000 and the performance was wonderful a lot of production if you go to those areas, Mr. Speaker. It is wonderful. If that can be replicated as the Millennium Village Project has handed over everything to County Government, you can see the difference. What he has said is that let this Government replicate what the Millennium Village Project is doing so that our people don't die.

Mr. Temporary Speaker, Sir, I want us to support this Report. I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Hon. Abayo): Yes, Hon. Asewe!

Hon. Asewe: Thank you, Mr. Temporary Speaker, Sir, I want to join this Hon. House to commend the CHVs for the good work that they are doing. My representation covers sections of the community that I can say are vulnerable in average. They depend mostly on these CHVs whenever they fall sick, they usually seek for them to help them because sometimes even reaching the facility is a bit difficult. We need to support the CHVs so that they can do their work effectively.

It is pathetic that among the 3arms of the government, the Executive is mandated to implement whatever has been passed. It is the same arm of the Government that when they make a mistake and the mistakes are highlighted, they are the same people to go and enforce

the law to correct the same mistake that they have done. This part of the law is doing a bit of disservice and it is a bit difficult to correct them. Our National law has given a leeway that it becomes a bit difficult to correct the Executive whenever there is a problem.

There are a number of issues that have been raised in this House concerning the implementations of the program that are in the Budget and it dies a natural death before it is enacted. This House must come up with a way they will enforce law so that whatever we are passing here can be worked on. Like this Report; the one that has just come from the same Committee that I am also a Member of. This Report needs to be implemented. Action should be taken so that whatever recommendation has been given here should at least be implemented so that the CHVs are supported to perform their duties effectively. This is the only area that is lacking. Otherwise, Members have talked and if this is not done, then it will not be easy to implement what has been recommended in this document. Thank you.

Hon. Owii: Thank you very much, Mr. Temporary Speaker, Sir, and the Hon. House at large. I am a Member of the Health Committee and I want to thank Members of that Committee for the good work because it's almost unanimous that the Report before us was well researched and is very much focused. The observations made by the Committee gives a picture of what is out there and the way the Executive is treating our CHVs. The recommendations given are pegged on our findings.

The health sector in this County has suffered for quite some time because of reasons best known to us. The first Health CECM, somebody who was so

2016 SIAYA COUNTY ASSEMBLY DEBATES

competent and well informed passed on and we stayed for a while without a replacement; and when we got one in the gentleman of Dr. Owilla, who in our own thinking we thought was performing, unfortunately there is nothing much that happened during his time. There are some vital programs that were never implemented during his tenure.

Now there is hope. Last week, we unanimously approved the name of one gentleman who has transformed the health sector at various levels, both nationally and even at the local level. Like in Siaya, we can remember when Dr. Onudi was here and what he did. So, there is hope. We can now start seeing light at the end of the tunnel. It's now upon the Committee and its chairperson to engage with Dr. Onudi before he takes to the tune of those people.

I want to thank Hon. Apiyo who talked about a health facility which has been a dispensary for quite a long time and even Dr. Owilla had gone there and made a recommendation that by April of last year, Masala was supposed to be upgraded. To date, they have not effected the same. Now that the Committee has made a request, if this report is passed, then we shall start pushing for its implementation so that Masala health facility is upgraded to a health Centre. This will make it have major improvements.

Lastly, I want to say that if at all we come up with a policy document for CHVs with the County Government, it will be binding and will make them not feel like they are doing a favor to the CHVs. The CHVs play a very important role at the grass root level and the little stipend they get should have been proposed earlier by us, not even them. This was their proposal; it wasn't ours. That's why it was

never captured in the budget estimates. We are now talking about it here and maybe it will be heard on Radio Nam Lolwe that we talked about it, but such proposals may not see the light of day because they were not actually captured in the budget.

This is a good report and even though I was late, I knew it would enjoy the support of the House because it was seriously well researched. When I was in Gem, I was a bit surprised. I found very bright ladies and gentlemen who are engaged as CHVs. Some of them are even doing their degrees and we had put them on Kshs. 2,000! Even the proposal of Kshs. 8,000 is still peanuts. They don't look like that money.

Those people are very bright; more particularly those from Gem. Even those from my area are good. It's only that our going was not made known to them earlier because they use other means of invitations. But the few that we got there were very bright. We were there with Hon. Odinga and he saw the kind of people that come from my area. Very bright people!

(Laughter)

Some are doing their degrees at the Great Lakes University! Yet these are the people we are paying Kshs. 2,000 and even proposing to pay Kshs. 8,000! I think we should be more considerate. If you people are earning what you are earning which I don't want to mention because at times it appears big and it's actually very small, then the truth of the matter is that we should also be considerate of other people outside there. I have hope that with the coming in of Dr. Onudi, we shall have a brain to engage with in a bid to change the face of Siaya.

Thank you, Mr. Temporary Speaker, Sir. I support.

Hon. Angul: Thank you, Mr. Temporary Speaker, Sir. I also want to express my support for this report. A lot has been said by my colleagues and I have seen the submission of CHVs from Gem and my sub-County, Rarieda. I have seen a list of names from Gem but none from Rarieda. So, we may not know the number of people that have been paid in Rarieda. They are really pestering us on their payments. So, the Committee should provide a list from Rarieda. Otherwise, Mr. Temporary Speaker, Sir---

Hon. Owii: Point of information, Mr. Temporary Speaker, Sir!

The Temporary Speaker (Hon. Abayo): What is your point of information, Hon. K'owii?

Hon. Owii: Mr. Temporary Speaker, Sir, I believe the list from Gem would have been very long if we had captured the whole of it. This was just but a list of some few names. The same happened with Rarieda. The only unfortunate thing was that people from his Ward---

The Temporary Speaker (Hon. Abayo): Can you use your microphone.

Hon. Owii: I thought it was on! People from his Ward never featured at all. We were talking of Rarieda minus his Ward yet it was known that the Committee was going to Rarieda. Maybe the information never reached his Ward. We didn't actually put it in Wards because if it were so, then Hon. Angul's Ward was not represented at all. That's the position. All the same, the information I wanted to give him is that from what we started, there has been an improvement in payment and by February these people had even paid the other quarter. Thank you very much.

The Temporary Speaker (Hon. Abayo): Hon. K'owii, we shall not take that submission---

Hon. Angul: Mr. Temporary Speaker, Sir, actually---

The Temporary Speaker (Hon. Abayo): Hon. Angul, take your seat! Hon. Members, it is in the jurisdiction of the Committee that even if you never got information—you know, we don't only handle our activities just in meetings, but if East Asembo was not represented by virtue of maybe communication, you would have still taken your time to get the facts. So that is not an excuse that we would want to admit on the Floor of this House.

(Applause)

Hon. Angul: Mr. Temporary Speaker, Sir, I want to say---

The Temporary Speaker (Hon. Abayo): Hon. Angul, I thought you were through!

Hon. Angul: Mr. Temporary Speaker, Sir, actually I didn't talk of East Asembo. I was talking about the submission of Rarieda sub-County.

The Temporary Speaker (Hon. Abayo): No, he gave you information and I think that is cleared.

Hon. Angul: I was not talking about East Asembo but Rarieda sub-County as a whole. There are five Wards in Rarieda, not only East Asembo---

The Temporary Speaker (Hon. Abayo): Hon. Angul---

Hon. Angul: What I was saying is that the list from Rarieda sub-County was not indicated in the Report.

The Temporary Speaker (Hon. Abayo): Hon. Angul, can you take your seat!

Hon. Angul: Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Hon. Abayo): The information that we have been given by Hon. K'owii who is a member of the Committee is that the other four Wards were

2016 SIAYA COUNTY ASSEMBLY DEBATES

represented. It's only your Ward that was not represented. Hon. Angul, are you done?

Hon. Angul: Mr. Temporary Speaker, Sir, I'm done.

(Laughter)

An. Hon. Member: Put the question!

The Temporary Speaker (Hon. Abayo): Before I ask the Mover to reply, I want to appreciate that an amendment has been moved in this House by Hon. Agoko and supported by Hon. Andiego that we include another recommendation that touches on the increase of the stipend of the community health volunteers from Kshs. 2,000 to Kshs. 8,000. Hon. Members, allow me not to put this to debate because all of us are aware that the moment you talk about anything that has financial implications, then the Budget Committee will have to look at it and there should also be consultations with the CEC Finance.

The Chair would therefore want to propose that when we received the budget estimates which were committed to the Budget, Appropriations, Finance and Vision 2030 Committee, it also stood committed to the Sectoral Committees. I want to advise the Committee on Health Services to look at this proposal and prepare a recommendation that they can then submit to the Budget, Appropriations, Finance and Vision 2030 Committee for consideration and of course they will be able to consult the Finance CECM in a bid to see how to address the recommendation.

Let me also add that the Chair is well informed that in Siaya County we have 2,148 community health volunteers. A simple calculation of that number against Kshs. 8,000, multiplied by 12 months, you'll have over Kshs. 206

million. It is therefore an area that we must give due consideration as we make those proposals. Allow me now to invite the Mover to reply.

Hon. Were: Thank you very much, Mr. Temporary Speaker, Sir. I want to appreciate the elaborate contribution of Members to this Motion. The concerns have been noted. I wanted to put it to the House that the health sector has got two strategy papers; The Community Health Strategy Paper and the County Health Strategy Paper. These are two working documents and the community health volunteers are an integral part of the papers.

The other information that I wanted to give the House that also touches on the debate that was in this House is that in the area of human resource, the United States government has already arranged to advance Kshs. 300 million to the health sector through ICAP. Already they are training our health professionals who are going to manage this money and the Health Department is going to handle this money directly, not through ICAP.

The departments of Health and Finance have not had a good working relationship for quite some time. Their relationship has been characterized by blame games and the flow and processing of payment records has been a challenge. But I have had an assurance from the CECM Finance that finance at the ATM, would be ready to pay the Community Health Volunteers on a monthly basis as soon as the health sector hygiene starts its own operations.

They will only wait for the processing and then they will pay them on a monthly basis, not quarterly as it is today. We are aware that the payments were done up to February. March and

April have not been done because they were doing it per quarter. But with the resolutions of the House and since money is available, we would really impress on the Executive that payments be done on a monthly basis.

The House rose at 11.27 p.m.

Otherwise, I would say thank you for the energy and passion that you have infused in your deliberations today. As a Committee, we would like to assure you that we shall be able to measure up to the mandate and task before us. Today, tomorrow, we shall work together, hand in hand. Thank you for your confidence.

Hon. Owii: Point of clarification, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Hon. Abayo): Not at this point! On the same Motion?

Hon. Owii: No. I just wanted him to assist us because he is talking of a recommendation that we have not covered here. How do we go about that?

The Temporary Speaker (Hon. Abayo): Hon. K'owii, the Mover has replied. He may have mentioned other issues or given other facts that may have not been on this Report, but that was to address the issues that were raised by Members. I think any other discussion on the same can be pursued outside this particular Motion.

(Question put and agreed to)

(Applause)

ADJOURNMENT

The Temporary Speaker (Hon. Abayo): Hon. Members, having exhausted the business of the day, this House stands adjourned until 2:30 p.m. this afternoon.

(Hon. Members stood up in their places)

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 4TH MAY, 2016

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

[Temporary Speaker (Hon. Abayo) in the Chair]

PRAYER

PAPER

REPORT OF THE HEALTH COMMITTEE ON
CHOLERA OUTBREAK

Hon. Were: Mr. Temporary Speaker, Sir, allow me to lay on the Table of the House the Report of the Committee of Health Services on Cholera outbreak.

(Hon. Were laid the document on the Table of the House)

The Temporary Speaker (Hon. Abayo): The Chair is aware that there is a Report of the Committee on Tourism, Wildlife Conservation and ICT on the Kiambu benchmarking visit on effective utilization of ICT and they would be giving an interim report, so they are not laying any official report as at now. Next order!

NOTICES OF MOTION

REPORT OF THE HEALTH COMMITTEE ON
CHOLERA OUTBREAK

Hon. Were: Mr. Temporary Speaker, Sir, allow me to give notice of the following Motion:-

THAT this House adopts the Report of the Committee on Health Services on cholera outbreak laid on the Table of the House this afternoon.

The Temporary Speaker (Hon. Abayo): Hon. Agoko!

Hon. Agoko: Thank you, Mr.

Temporary Speaker, Sir, I wish to give notice of Motion:-

AWARE THAT, Section 47 (1) of the County Governments Act, 2012 stipulates that the County Executive Committee shall design a Performance Management Plan to evaluate the performance of the County Public Service and implementation of the County policies;

FURTHER AWARE THAT, sub-Section (3) requires the Governor to submit the Annual Performance Reports of the County Executive Committee and public service to the County Assembly for consideration;

CONCERNED THAT, the Governor has never submitted any Annual Performance Reports to this Assembly for the last three years, this House RESOLVES THAT the Governor submits the Annual Performance Reports for the last three years 2013/2014, 2014/2015 and 2015/2016 for consideration by the Assembly within 30 days.

The Temporary Speaker (Hon. Abayo): Yes, Hon. Aneme.

Hon. Aneme: Mr. Temporary Speaker, Sir, as per the Order Paper, we were to lay our Report, but I want to request the House that we defer this until we align it with the ICT policy document which was done in Naivasha.

The Temporary Speaker (Hon. Abayo): We shall give the Committee on Tourism two weeks to finalize.

Hon. Muhulah: I have not heard the substance in what the Hon. Member is saying; he is talking about aligning and waiting at the same time. Could the Hon. Member come out very clearly on what he has?

Hon. Aneme: Mr. Temporary Speaker, Sir, our report is not complete because there is a part to be included. There was the ICT Policy Paper which is to be part of this. Without it, this report is not complete.

The Temporary Speaker (Hon. Abayo): I wish to add that the Chair is privy to the information, that the interim report on the benchmarking that the Committee---is done and it needs to be aligned with the National ICT Policy. We are aware we also have our ICT Policy that has not been finalized and there is also the County Revenue Automation Report that came from Naivasha when they had a meeting, so the Committee will want to align the report with those particular two issues. Next order!

MOTION

REPORT OF THE HEALTH COMMITTEE ON CHOLERA OUTBREAK

Hon. Were: Mr. Temporary Speaker, Sir, I wish to move the following Motion:-

THAT this House adopts the Report of the Committee on Health Services on Cholera outbreak as laid on the Table of the House this afternoon.

EXECUTIVE SUMMARY

On behalf of members of the Committee on Health Services inquiring into the matter of Cholera outbreak and the County Governments' intervention to curb the spread, I am pleased to present this Report to this Hon. House.

On 25th February, 2016, the County Assembly, pursuant to Standing Order No. 31(1) which states that;

(1) Any Member may at any time rise in his or her place and seek leave to move the adjournment of the County Assembly for the purpose of discussing a definite matter of urgent County importance.

(2) A Member who wishes to seek leave to move the adjournment of the County Assembly shall, at least two hours before the commencement of the sitting, hand to the Speaker a written notification of the matter but the Speaker shall refuse to allow the claim, unless the Speaker is satisfied that the matter is definite, urgent and of COUNTY importance and may properly be raised on a Motion for adjournment of the County Assembly.

(3) If the Speaker is satisfied in terms of paragraph (2) and not less than FIVE other Members rise in their places in support, the Speaker shall nominate a time on the same day at which such Motion may be moved'

In lieu of the above, the Assembly suspended its normal Business to discuss Cholera outbreak and the County Government intervention to control and stop the epidemic. The Speaker of the day directed that the Health Committee investigates the matter with utmost speed and report back to the Honorable House. The Committee held a total of four (4) meetings where it engaged the Chief Officer Health Services, the CEC Member for Governance and administration, CEC Member Finance, Planning and Vision 2030 and held site visits in an effort to ascertain the level of spread and intervention.

Summary of findings

A key finding of the Committee was that the Department of Health Administration does not have a Chief Officer of Health.

Committee's Mandate

The Committee on Health Services is one of the Sectoral Committees established pursuant to provisions of *Standing Order No. 192*, whose mandate is to deliberate on all matters related to County health services, including County health facilities and pharmacies, ambulance services, promotion of primary health care, licensing and control of undertakings that sell food to the public, cemeteries, funeral parlors and crematoria and refuse removal, refuse dumps and solid waste disposal.

Acknowledgement

I wish to record the Committee's gratitude to the House for having entrusted us with the execution of the important duty of contributing to the efforts of improving provision of health services in Siaya County. The Committee is thankful to the entire membership for their dedication and commitment during the fact finding and deliberations that made this Report a reality.

The Committee thanks the Office of the Assembly Clerk for related facilitations and our Clerk Assistants for ably coordinating the investigations and report writing activity.

It is now my pleasant duty, on behalf of the Committee on Health Services to present this Report for immediate consideration and adoption by the House. The Committee prays that this honorable House adopts the recommendations proposed in this report.

Mr. Temporary Speaker, Sir, the Committee met the Chief Officer, Health Services on Tuesday 1st March, 2016 to discuss Cholera outbreak. The Chief Officer stated the following:

- The infections reported are occurring along River Nzoia and its tributaries. (Wuoroya and Fuludhi)
- Number of cases- 230
- Total No. of Deaths -9
- Alego Usonga Sub County 91 cases with 3 deaths
- Ugenya Sub County 29 cases with 1 death
- Ugunja Sub County 96 cases with 5 deaths
- Gem Sub County 4 cases with no deaths
- The health facilities in affected areas do not have food to give to the patients since the facilities do not offer meals.
- Some dispensaries have been shut down and staff transferred to the affected facilities
- Funerals have been supervised in Ugunja to help Contain the spread of Cholera
- The protocol of Cholera management have been reviewed and staff adequately informed
- World vision, Moi University, Red Cross among other partners are offering assistance, however, technical staff of Red Cross is currently not available.
- The staffs in affected facilities are fatigued and the Public Service Board has been requested to recruit 20 nurses on short term basis to help contain the situation.

Interventions

1. Purchase and installation of 5.5 KW, Submersible Pump of 4” Diameter at Kshs. 170000 in Ugunja Sub County.
2. The Department of Public Administration and Governance gave 200 liters of fuel against a requirement of 1651 liters.

Committee observations

- There is no situational analysis on the availability of water in all the health facilities in the County.
- Most communications between the Health Department and other Departments regarding Cholera is verbal and thus non-committal and unreliable.

Submissions from the department of water

Mr. Temporary Speaker, Sir, the Committee met the representative of the department of water on 2nd March, 2016. The Officer gave the apology of the CEC Member and made the following submission:

- The Department of Water no longer offers extension services due to its lean staff and lack of facilitation. There is only one double cab shared amongst senior officers.
- The Department had not been involved in the fight against Cholera since the outbreak. The Department has only been invited to meetings discussing the condition.
- The last time the Department received an AIE worth Ksh. 200 000, the payments were processed and on taking the documents to

Finance, the Department was informed that there were no funds.

- The funds are domiciled in the Department of Finance and AIEs given are never liquid. Additionally, the Department has not paid its fuel bills from November 2015 to date.
- Siaya Bondo Water and Sanitation Company is not living up to expectations even though the County Government pays its electricity bills worth Kshs. 5Million every two months.
- There is no official safe water supply to the affected areas and there is urgent need for hygiene awareness.
- The Department needs Ksh.1Million for rapid response to help contain the situation.
- The Committee suggested that instead of going through the long procurement process, Davis and Shirtliff Ltd should be contracted immediately by the County Government to install water pumps in places where the existing ones are non-functional to increase water supply.
- The officer informed the Committee that the said company installed a pump in Sakwa one year ago and has never been paid and therefore the relation with the County Government is strenuous.

The Committee sought to know the preventive measures put in place in areas that are not yet affected, such as Bondo town which has very high population yet has no tap water. The residents of the town use untreated borehole water and water from the nearby rivers. A disturbing

case was of students from KMTC who were being supplied with water using donkeys.

The response was that the Department could mobilize water bowser but that was not possible since they did not have funds.

Submissions from the CEC governance and administration

The Committee met the above officer on Wednesday 2nd March 2016. The CEC Member submitted a report to the Committee reiterating that indeed the function of disaster management is domiciled in his docket.

During the making of the supplementary budget, the department requested for Ksh. 15M for disaster management which was not allocated. The department therefore had no funds to take care of the situation. He however shared with the Committee that there will be a disaster management committee meeting on Thursday 3rd /3/2016 to find a way forward on the matter. The CEC Member further stated that there are emergency funds in the docket of Finance, Planning and Vision 2030 which can be used to contain the spread of cholera.

On following up whether the above disaster management committee meeting took place, the Committee discovered that the meeting did not take place since the CEC Member for Governance and Administration was away in Ugunja to close the market.

Submission from the CEC finance, planning and vision 2030.

At the time of meeting the Committee, Ksh. 3 860 000 has been spent on cholera management and mitigation. Of this, Ksh. 230 000 has been used to procure 5.5 kW submersible pump of 4 diameter to ensure provision of sufficient water. The department of Health has requested for

Kshs. 800 000 to mitigate effects of cholera outbreak in Ugunja where 12 cases had been reported

Committee observations

1. The Disaster Management Committee ought to have met even if there were no funds in the docket to help curb spread of cholera. The explanation given for this Committee not convening is not sufficient.
2. There seems to be a disconnect between the department of Water and Finance.
3. The CEC Finance did not present a breakdown of the utilization of Ksh. 3 860 000 towards mitigation of cholera outbreak.
4. There was no prompt support from the County Government to the department of Health during cholera outbreak
5. Even though funds were not available in the disaster management docket, that was not a sufficient reason for not having a single meeting to discuss the menace that was taking the lives of residents of Siaya County.

Committee recommendations.

1. Funds should be availed immediately to the department of Water to enable them distribute water using water bowsers to the affected areas and areas under threat of infection.
2. The terms of engagement with SIBO should be reviewed in 60 days by the department of Water in conjunction with the department of Finance and cost benefit analysis done because the County Government cannot

2016 SIAYA COUNTY ASSEMBLY DEBATES

be spending Ksh. 5M every two months yet there is no value for taxpayers money spent.

3. Water is a very crucial commodity in human life and thus should be accorded very serious support. In lieu of this, the department of water to be adequately staffed and the required facilitation for proper functioning be provided in sixty days.
4. The reason for non-payment of Davis and Shirtliff should be ascertained, appropriate measures taken and the company be paid in 60 days.
5. The County disaster management committee failed the County during Cholera outbreak and should give an explanation to this House in thirty days and ensure the same does not repeat itself and be very aggressive in pushing for disaster preparedness. Furthermore the Committee should be immediately properly structured and funded.
6. The PIC and PAC Committee to request for a special audit of the spending of the County Government on SIBOWASCO immediately.
7. The Department of Water in conjunction with the Department of Health to work out strategies that will see all the health facilities in the County have reliable water supply by the end of first quarter of the FY 2016/2017.
8. The Department of Health should ensure that there is

sufficient supply of drugs to help contain situations during disease outbreaks.

Attached are correspondences between the Health sector and the Assembly. I request Hon. Anastasia Augo to second, thank you.

(Hon. Augo stands to second)

The Temporary Speaker (Hon. Abayo): Hon. Members, I propose the question that this House adopts the Report of the Committee on Health Services on Cholera Outbreak laid on the Table of this House today Wednesday 4th May, 2016. Yes, Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Temporary Speaker, Sir, for having given me the first opportunity to air my concerns as per this Report. Of course I would support the Report. As for my case ---at the orbital level, the Report is very perfect, coming up with proper recommendations. These recommendations must be anchored on policies; we are only reminding the Executive to ---those policies. The issues of inter relatedness of various Ministries or Departments is not our duty to be telling them.

How Water relates with the Health and vice versa and Finance, is none of our business because we even have a docket going by the name Governance with a lot of staffers. So that is why to me, we are advising the Executive on what they should be doing, theirs is implementation.

What concerns me is that we as a County, did cholera come from Siaya County? The answer obviously in no because Siaya County is not anchored anywhere. Cholera must have come from Sub Locations, Villages, Wards, and then it will be more difficult to talk of Sub

2016 SIAYA COUNTY ASSEMBLY DEBATES

Counties unless we talk of the County. The statistics for Alego is very clear, 90 and above is threatening if incidences can occur and reported deaths, I can objectively say, from Nyathe where Uraya is to Nyagwela or Central Alego, that is Kakunkobewa, Koyeyo and Kochieng' B over 90 cases came from those places and even deaths.

The issue is all about the preventive ground, not curative. Those recommendations are still worrying because we do not know when the governance crisis at the Executive shall be resolved because it is not our duty. We talk about giving water pumps, the facilities have been noted, I did not hear of Nyathe ---community Health Centre, Segere and even Kochieng B or elsewhere in my Ward. So even if they were to take water, that one is not touched.

The Issue of Budget at the Executive level is the talk of disaster, no one talks about that one, but the bottom line is the provision of clean water. As people from Central Alego, we were held in 2014/2015, because we talk of, maybe it is not portable water, we have wells in large numbers, it is all about disinfection of those wells and then rehabilitation to prevent contamination.

In my Ward which is most affected, carry the statistics for Siaya County, the 2013/2014 budget, there was a plan to repair shallow wells at Nyathe, Kakunkobewa, Rarienda shallow well, ---shallow well, Nyasaga shallow well, in Kochieng we had lower Nyangoma and of course Uyugu shallow well. The Budget is yet to be implemented and it is out of the use of contaminated water that we are affected; this would easily be prevented through the Budget.

The public in our area had noted that, use of polluted water may lead to cholera incidences. I blame the Executive, they are responsible.

Provision of piped water covering Nyathe, Kakunkobewa and Koyeyo, Lugalwa Primary School Water Project, there was a budget for laying the pipes for over 7km and several water points; this is yet to be implemented! And this is the Ward where the Governor comes from. Interestingly, it is his people in the former Central Alego where he comes from who are dying.

Mr. Temporary Speaker, Sir, we also knew in advance that one of the ways of negating incidences attributable to cholera cases was to empower the Community Health Workers, because most of the cases when reported, it is too late. In 2015/2016 budget, there was money to buy chlorine for water disinfection among other things that Community Health Workers could control because they are the ones who are managing the projects by donors where there should be chlorine dispensers which are no more! Just buying chlorine to give to Community Health Workers so that our water pumps, shallow wells, ---those places are cultivated. I am saddened and I condemn these incidences of sleeping on the job.

Lastly, scientific cases of incidences, I would report here that sometime back I had hinted out informally that my mum was admitted, the County had gone public that my mum had suffered from cholera, one area that had been unearthed by one of our Members, Hon. Zilpa, the former principal for Ngi'ya Girls High school, that even some of the cases in our Health Centers that our professionals display as cases are not genuine.

My mum was subjected to antibiotics; tests were done and to date, results are yet to be released from the County Referral Hospital. She ended up using antibiotics and everybody knows that antibiotics on any given disease, you start administering it without carrying out tests; you will not know what the cause really was.

So, mismanagement in our Health facilities, lack of professional equipments or insouciance in so far as the display of those professional equipments is wanting. So it is to that extent I thought that ---. As you aspire for preventive rather than curative, I am at pain to support or oppose. Thank you.

The Temporary Speaker (Hon. Abayo): Hon. Ndonji!

Hon. Ndonji: Thank you, Mr. Temporary Speaker, Sir. Despite the fact that I support this document, I have some observations to make. The first one is, you realize that all the Chief Officer stated, you can say that he talked about a staff affected, facility being fatigued and the Public Service Board has been requested to recruit 20 nurses on short term basis to help contain the situation. I think this one depends on the current situation, so if you just leave it this way and probably you have not analyzed the current situation, then there is no need of having these people if they are being engaged specifically for this particular problem.

In this document there is a submission by the Water Department; they said that the Department of Water no longer offers extension services due to its lean staff and lack of facilitation. This means that they were offering these services and so we can't understand why they are not offering them now with the lean staff that they have yet they were

doing it earlier. It means that this one is an excuse that is not supposed to be taken by the Assembly because I don't understand why they can say that they are no longer offering these extension services while they used to do it, according to what has been written here.

Mr. Temporary Speaker, Sir, the Department went ahead and said that they were not involved in the fight against cholera since the outbreak and at the same time they are conceding that they were being invited to these meetings to discuss the condition, which means that they were being involved! You can never say that you are not being involved and yet you are attending these meetings.

They also say that, the last time the Department received an AIE worth Kshs. 200,000.00, the payments were processed and taken to finance and the Department informed them that there were no funds. This is a song that we have to do away with within this County since there is no time that any money can be requisitioned and they get available; they only become available when useless things are to be done, like foreign travels that are being claimed, they are being used for investors which we have never seen since these foreign trips started being in Siaya here. Siaya/Bondo Water and Sanitation Company is saying that it is not living up to its expectations despite the fact that the County Government has been paying its electricity bills worth 5 Million shillings every two months.

My question is, these money, is it paid to Siaya Water or is it paid to Kenya Power and Lighting? Because I tend to think that when it comes to electricity bills, it should be paid to Kenya Power and Lighting unless it is going through this particular Company.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Still going on with this, the Committee suggested that instead of going through the long procurement process, Davis and Shirtliff Ltd. should be contracted immediately by the County Government to install water pumps in places where the existing ones are non-functional to increase water supply. This one I support, though I want to say that, when you go ahead reading this report, it indicates that the County Government has been working with Davis and Shirtliff and the problem is that there are some payments that have not been made to Davis and Shirtliff. I also see the Executive not doing this one because we are very much aware that in most cases, there are people in the Executive who would like to give these things to contractors so that they can at least get a kickback. I want us to hold this one very dearly and talk about it and ensure that Davis and Shirtliff is given that one because it will also be more economical if Davis and Shirtliff directly does whatever is being said here.

Then comes the response that the Department could mobilize water boozers but that was also not possible since they did not have funds. We need to be made aware, if the water boozers that is being talked about is owned by the County Government or is something that is being owned by any other entity.

On the submission from the CEC Governance and Administration, it is said that, a report to the Committee reiterating that indeed the function of disaster management is domiciled in its docket, and he said that during making of supplementary budget, the department requested for 15million shillings for disaster management which was not allocated and the Department therefore had

no funds to take care of the situation. It is in the public domain that the National Government was also giving out funds for disaster management.

We would like to know what became of these funds in case they were brought to Siaya and if they were not, we would like to ask if Siaya County is not within the divide of the National Government. It is said that, on following up the above disaster, Committee meeting took place, that the Committee discovered that the meeting did not take place since the CEC for Governance and Administration was in Ugunja to close the market. That is absurd, a meeting has to take place and there is no way in --- meeting will stop taking place because of one individual! Secondly, Mr. Speaker, Sir, the CEC Member for Governance and Public Administration cannot purport to have gone to close a market while there is a meeting that was being done to discuss issues about whatever was going on there.

On the same issue of CEC Governance and Administration, there is even a PIC and PAC Report that had been taken to the Executive that recommended that the Executive should do away with the Officer. It is very wrong and absurd that whatever is passed in this Assembly is never implemented by the Executive and I am very sure that even this one might not be implemented.

The Committee observed that the CEC for Finance did not present a breakdown on the utilization of the Kshs. 3.6million towards the mitigation of cholera outbreak, this one should be done like yesterday. I don't know if he has already brought it but there should be a breakdown of everything that is being done within the County which has never been the case. I rest my case and I am not

sure whether to support it or not but I want say that, even if we are passing this report, let the concerns here be considered and also be highlighted so that our concerns are factored in that report. Thank you, Mr. Speaker, Sir.

The Temporary Speaker (Hon. Abayo): Hon. Ndonji, as you make your presentation, you will either support the report or reject it, that has to come out very clearly in your submissions, because I know you have the capacity to take a decision.

Hon. Ndonji: Mr. Temporary Speaker, Sir, I support the report but only with the concerns raised being added to the report.

The Temporary Speaker (Hon. Abayo): Thank you. Hon. Shaban!

Hon. Augo: Mr. Temporary Speaker, I would like to bring to your attention that...

The Temporary Speaker (Hon. Abayo): What is your point of order?

Hon. Augo: Just to bring to your attention that the Members are leaving the Chambers and this debate is very crucial and we shall lack the quorum.

The Temporary Speaker (Hon. Abayo): That is noted!

Hon. Shaban: Thank you, Mr. Temporary Speaker, Sir, for giving me this chance but before I contribute, in the Report we are told that there is submission by CO Health in annex one and annex two, but if I check the attached here, he is just giving the response to the County Assembly Health Committee concerning NHIF and CHW. I don't know if the report I have is different or that is what that has been attached, because I can't see the flow.

The Temporary Speaker (Hon. Abayo): Hon. Shaban, look at the last page if that will be useful, the last page.

Hon. Shaban: This is a continuation of this page, we are told there is annex one and annex two and they are not attached here. What has been attached is what was in the Report that we discussed in the morning. So, my concern is; if we submit that Report to the Executive, then this Hon. House will not be respected, so we should be given the correct one.

The Temporary Speaker (Hon. Abayo): Any response from the mover!

Hon. Were: Mr. Temporary Speaker, Sir, this could be a clerical omission when they were binding the Report.

Hon. Owii: I don't know if we are having different Reports.

The Temporary Speaker (Hon. Abayo): The Chair is informed that the annex refers to a letter containing submissions on what was discussed in the morning and on what we are discussing now, so if you have a copy, that is very important. So, can you continue?

Hon. Shaban: Thank you, Mr. Temporary Speaker, Sir. As we sit here as Hon. Members, we need to protect lives of the people that we represent. From the Report, there are three things that are coming out clearly that make the Executive fail. One is lack of trust. There is a recommendation that Davis and Shirtliff be paid within 60 days and also the Committee said that once they are paid, they will be entrusted with sinking boreholes in the required areas so that our people can get clean water.

So, first of all, I think the Executive should address the issue of payment in time so that our partners can be

ready to work with us and assist us all the time.

Number two, is on availability of clean water. You find that what we are talking about; the outbreak of cholera, one of the causes is the usage of water that is contaminated and I think if the County Government is serious, the way it has been recommended by the Committee; that all Health Centers should have clean water by mid of 2016/2017. So, I am saying that, before we pass our budget for 2016/2017, all Members should check that the Health Centers in their areas, clean water has been budgeted for. We can also assist the Executive in implementing this thing by passing the right things in the House.

Number three is cleanliness. If we can use the Health Volunteers, if they are trained well, they are the people who can reach the masses on the ground by informing them on how they should maintain cleanliness and the effect of not maintaining the same on what they use like food and clothes. So, these are three key issues that are captured in this Report that we should look at then we implement in our Budget of 2016/2017 then we see that in the year 2017 we may not have the outbreak of cholera. I support the Report.

The Temporary Speaker (Hon. Abayo): Yes, Hon. Aneme!

Hon. Aneme: Mr. Temporary Speaker, I also rise to support the Report but there are some other points that I want to share. It is painful that the Siaya County Government can turn a deaf ear to a situation where 230 people are attacked by cholera out of which 18 died. When you see what the Report is giving us today, there are hide and seek games between the Health Department and the Finance office in Siaya. It is very painful that the

outbreak has occurred and the Health Department ---involvement is not required by the Administration of the County Government, it is very painful and people are dying.

It is also painful that, when these people surveyed the whole scenario and requested a budget of 15million which was supposed to cater for the entire Siaya County, they were denied the money.

Again you find the people denying them money are the people who are technocrats in that Department, they are also using the money which they are supposed to give these people and fail to account for, which means, these are monies which have been shared among the Executives there headed by the CEC Administration whom we know his conduct where money is involved.

It is very painful, when I ---SIBO we delink the Executive or the County Government with SIBO. On Monday, I was at the Olago Water point, the SIBO Headquarters; the entire Bondo cannot get water because of SIBO. Personally, in my Ward I got a pump of 2million, it has been installed at Olago. Hon. Andiego also bought another one of 2million, it is installed there, but still SIBO cannot pump water from the Lake.

When you look at the way money has been given to SIBO from the Executive, 5million after every 2 months, it is money pumped there and they follow for sharing, because there is nothing the SIBO people are doing to supply water for the people. In Bondo, people are fetching water with buckets from other institutions.

When it comes to the idea of Health, I shall reiterate my earlier stand that we call the CEC Health and the CEC Finance here, and then we ask them these questions. When you look at this Report,

it is just a Hide and Seek game, when they are asked this, they give this and there is nothing they are doing. I shall persuade my colleagues that we tie the Report on cholera with the other one on SIBO so that we call these people here to handle these issues in the House once and for all. Thank you, Mr. Temporary Speaker.

The Temporary Speaker (Hon. Abayo): Yes, Hon. Agoko!

Hon. Agoko: Thank you, Mr. Temporary Speaker, Sir. I want to support this Report. I want to state that about 10 people died from cholera, leave alone my Ward but within my village, it was hardest hit, reason being that the use of Ulubi water that runs into Wuoroya that Hon. Oriaro was talking about. The source of River Ulubi---, probably it could have been contaminated from that area.

It is quite unfortunate that lack of safe drinking water is the biggest course for this and clean water, piped water stopped running in Sidindi Ward in around --- and since then, that is when Sidindi Malanda Water supply stopped supplying Sidindi Ward. So, ---never been supplying Sidindi Ward.

I am happy that the SIBO guys told me the other day that they will be rehabilitating it. It is a big concern that lack of water has caused all this but my worry is the disinterest demonstrated by both Departments of Finance and of Health. Both Departments have demonstrated high levels of --- and it is so worrying that they handle their things with a lot of sluggishness and lack of interest.

I would say in a nutshell that something needs to be done. When somebody talks of spending Kshs.2.8 Million on the same to litigate! I want to say this should be accounted for because

all the people affected in Sidindi Ward were paying for their dues.

Even those whose patients died, their next of kin had to foot the bills. So I am wondering where this money was spent, what was bought with this money because as of now, probably the problem we had could have been somebody's windfall and then encompassed with the lackadaisical manner in which they are doing their activities, Mr. Temporary Speaker, we are at risk. We need to push the Executive to do the right thing.

I want to concur with my colleagues that the 2 officers in charge of those top key Departments need to appear before us to explain and account for each and every cent and the measure they have put in place to ensure that the right things are done. We had just talked about community health volunteers who helped a lot in struggling to mitigate this with the support of other development partners. I want to say that Moi Teaching and Referral hospital was one of them; ICAP was another one while Siaya County was conspicuously absent. I rise to support this Report.

Hon. Okuku: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity this afternoon to add my sentiments. As this Hon. House sits this afternoon, we are deliberating on the health of a vulnerable person who is grounded somewhere and is looking and waiting deliberately and helplessly for this County government to put down structures that can offer services at the end, which can bring a positive change to their lives, Mr. Temporary Speaker.

We have a very chronic and long term disease in this county government of shifting goal posts from one Department to the other, from one CEC to another. The

CECs are just waiting for the opportunities that can arise within the County so that they can lynch the money which is in the County. If you read the Report, you find that some Kshs. 3.8Million has been utilized by CEC Governance while critically if you look at it, he has not even attended a meeting where the affected people are which can litigate the lives and control the spread of the disease, this one should be accounted for.

I think that if this House cannot stand tall and ensure that the CEC Finance is pushed, the people of Siaya will continue to suffer because even the release of funds is a chronic disease, Mr. Speaker. One time, one day our people will continue suffering because of the changing of goal posts here and there, left and right, center, top and bottom. The people are suffering and waiting for us and looking helplessly if the Assembly can rescue them.

Mr. Temporary Speaker, I want to recall that once upon a time in this Assembly we passed a Report from the PIC and PAC that was recommending that the CEC Finance, CEC Administration and Governance should be sent home because of the high level of incompetence and impunity that they have exhibited in this governance.

I think we should follow up this one very critically so that the 2 CECs should be sent packing and Siaya residents should get services that are their Constitutional right because whoever is in charge of the docket as a CEC is earning a salary which is a public fund to give services to the community. Our people should not continue suffering because of the two or three people who are not giving prompt services even if they are affected by cholera, Mr. Speaker. I want to rest my

case by urging this House that we should pick it up quickly.

We should follow what this Assembly approved in the Report on PIC and PAC so that some other two or three CECs should be shown the door. Otherwise I rest my case, Mr. Temporary Speaker. Thank you very much.

The Temporary Speaker (Hon. Abayo): Yes, Hon. Osuri.

Hon. Osuri: Thank you, Mr. Temporary Speaker. On this Report we have just been given, if you look at the submission of the Department of Water, it is clearly stated that the Department no longer offers extension services. The reason that they are giving is, they have new staff and lack facilitation, yet it is reported here that there is only one government car shared among senior officers and cholera outbreak is an emergency. You wonder the priority that they are giving the senior officers and letting the affected people die. You wonder what their priority is.

It appears from this Report Mr. Temporary Speaker, as if no money had been allocated to the Department of Health because everywhere they are giving an excuse that there is no fund. Yet this Assembly through the Budget Committee had budgeted and allocated money to this sector. Yet everywhere we are being informed that there are no funds.

Mr. Temporary Speaker, I have not seen particularly this Report where they keep the area of the Public Health, particularly with respect to our market addressed because Cholera is a waterborne disease. If you visit most of the markets, there is a lot of uncollected garbage. Yet these are the places where you find even food stuff being sold making it prone to the outbreak of Cholera. It is high time that

2016 SIAYA COUNTY ASSEMBLY DEBATES

the County Government allocated money and also equipment to collect garbage from our markets. If you visit 9 markets like Ngi'ya in my ward, you will find heaps and heaps of garbage that are not collected making it conducive for the Cholera outbreak.

There is also need for public education. We need to have money to educate our people on the importance of clean water. Also the rivers that have been talked about; Nzioa, Dudi and the rest, you find people bathing anyhow in those water sources and we need to educate our people on the essence of clean water. It is very important for our County Government because we are losing our people as has been stated in this Report. If we don't address this, we shall continue to lose our people.

This morning we talked of the Community Health Volunteers. Those are the key people whenever there is an outbreak in any area. Those are the first people that normally are closest to attend to these people and yet they are also being frustrated. So, Mr. Temporary Speaker, I support this Report. Thank you.

The Temporary Speaker (Hon. Abayo): Hon. Members, allow me to invite the mover to reply.

Hon. Agoko: I want to appreciate the Hon. Members' contributions. It is our responsibility as an Assembly and County Government of Siaya. This is where our oversight role should be very loud for those who are dying on the country side and our very relatives. Health is devolved, water is devolved. County Assembly has a partnership role to play in budget making process. And your concern that has been presented in this Assembly is noted.

It is a real concern the Departments of Finance, Water and Health have not

been able to really coordinate their activities and the gaps have really impacted negatively on service delivery. As we make resolution today in this Assembly this afternoon, with the time lines that this Assembly has laid, we are only waiting for the 30 days or the 60 days and then we shall be back to knock on their door to ask, 'Where are you?' Because it is our responsibility.

Cholera as an epidemic is not a friendly one because it leaves fatalities on its wake. It is a sad thing that we should be valuing our county. There was a time when a mover crossed a Bill and I could tell my friend, the Hon. Agoko, that I am not buying any meat and I am not eating anywhere in the affected areas within this Ward. So, today as we move and make a resolution it has come at the right time and I appreciate your contribution.

The Temporary Speaker (Hon. Abayo): Hon. Sellah, I hope you are not leaving because we have a crisis. So if you are going out and coming back, please consider that.

Hon. Agoko: As I sum up, there is the need that the CEC Finance, CEC Health and CEC Water should be here. As much as it is not part of our recommendation, it has been fronted on the Floor of the House and I am with you in this. Otherwise I appreciate and I thank you for your contribution. We should move forward and make Siaya a safe County. Thank you.

(Question put and agreed to)

The Temporary Speaker (Hon. Abayo): Hon. Members, allow me to observe that from our discussions in the morning and today afternoon, there comes

2016 SIAYA COUNTY ASSEMBLY DEBATES

a clarion call. Let me sit so that Hon. Members can come in.

The Chair is observing that this House seems to be relenting on its powers and many of the Members have stated that in this House there are many recommendations that are made and are never implemented. I wish to invoke Article 185 (3). It is very clear; it talks about the legislative authority of this House.

On (3) it is very specific to the legislative's power to oversight the Executive. It is so explicit. There has been the call that we invite the CEC Finance, CEC Health and it is also now coming out that the CEC Water should be invited to this House.

The Chair would want to direct as follows; that the various Committees take responsibility because they have the powers to do that. Any proposal on PAC and PIC on any issue on any Member, I want to ask the Committee on PAC and PIC and together we shall be looking at and calling upon the Committee on Implementation across board to see the implementation of all these issues.

If there is any proposals of any censor on any CEC at the threshold all the issues to be looked at at the level of the Committee to make a strong case that will make this House not just come to talk to us but to censor. So if there are any proposals from PAC and PIC on any CEC, let that be revisited and a strong case be built that as we come to this House, we have critical issues to look at. Same to the Committee on Health, we just recruited the CEC Health and I want to answer the Committee on Health that they pull all and sundry together including the new CEC and revisit the issues that have been raised in the docket of Health and find a lasting

solution but if we cannot then we shall be laying our hands on any Member culpable and that this Assembly should take action.

On the Committee of Water, I want to direct that the Committee takes the issue of SIBO in terms of their mandate even with the Board and Department concerned that we shall critically look at the issue of SIBO with the provisions of water in this county. That water we are able to have facts and I want to ask the Committee to look at the terms of reference that they will be able to engage.

That we can have a solid case that this House can take serious action on any commissions or omissions on these particular Departments that we have mentioned here today, lest we stop the mention that we are toothless. The Chair would want to assert that this House is not toothless. Let's take our responsibilities. Let us put together the facts and let us take action when it is due. Thank you. Next Order.

Hon. Agoko: Thank you, Hon Speaker, I wish to move a motion:

AWARE that the County Government Act 2012 Section 27 stipulates that the CEC shall design a Performance Management Plan to evaluate the performance of the County Public Service and implementation of County policies.

FURTHER aware that the subsection 3 requires the Governor to submit the Annual Performance Reports for the CEC and Public Service to the Assembly for consideration;

CONCERNED that the Governor has never submitted any Annual Performance Reports in this Assembly for the last 3 years;

This House resolves that the Governor submits the Annual Performance

2016 SIAYA COUNTY ASSEMBLY DEBATES

Report 2013/2014, 2014/2015 and 2015/2016 for consideration by the Assembly within 30 days.

In line with the spirit of deliberations of the House and by the resolution of the Chair in previous Motions. Mr. Temporary Speaker, it is of great concern that most of the Sections of the Act have not been adhered to and compliance to the constitution is very minimal. Mr. Temporary Speaker sir, I wish to take the House to the Section that you had quoted.

Section 185(3) of the Constitution 2010 that reads; *a County Assembly while respecting the principle of the separation of powers may exercise oversight over the CECS and any other County Executive organs.* This House has the power of oversight and ensuring that the lackadaisical manner that the County Government has been handled be put on check and brought to a stop. I therefore beg this House to support. I call upon Hon. Ndonji to second.

Hon. Ndonji: Thank you. Hon Members allow me to propose the Question;

AWARE THAT the County Government Act 2012 Section 14(1) stipulates that the CEC shall design a performance management plan to evaluate the performance of the County Public Service and implementation of County policies.

FURTHER AWARE THAT the 47(3) requires the Governor to submit the Annual Performance Reports for the CEC and Public Service to the Assembly for consideration. CONCERNED THAT the Governor has never submitted any Annual

Performance Reports in this Assembly for the last 3 years.

This House resolves that the Governor submits the Annual Performance Report 2013/2014, 2014/2015 and 2015/2016 for consideration by the Assembly within 30 days.

The Temporary Speaker (Hon. Abayo): Hon. Agoko, would you still want to advance any submissions?

Hon Agoko: Mr. Temporary Speaker, Sir, I would. Going by the same, this House has been very actively today analyzing and considering the issues in relation to service delivery. I have been using the word lackadaisical many times; I have been using the word lethargy many times. Mr. Speaker there is a lot of sluggishness being exhibited.

Somebody talks about what should have been done 2 or 3 months earlier and there is no demonstration of willingness to do the same. Mr. Speaker, issues that should have been done, things that are very simple that should be done within a short time are never done.

I have noted here, Mr. Temporary Speaker, that when it came to transferring Kshs. 92Million from the Health sector imp rest account, it took minutes but when it comes to payment of personnel it takes Ages. Mr. Temporary Speaker, even the implementation of activities is wanting. Every year, day in day out, we are now in the third year running; it was coming to a close and what we budgeted for in 2014. Many of them have not been implemented.

(The Temporary Speaker (Hon. Abayo) consulted the Clerk-at-the Table)

(The Clerk-at-the Table walked out of the House)

For example I would give the street lighting worth Kshs. 3.8 million located in Sidindi Ward, and many others have not been implemented. In this case it will be very important and paramount that we get these Reports from the executive. To tell us what their plans are, to tell us their performance indicators, to tell us as far as their plans are concerned because every activity in the County Government is time bound. Now that they have failed to abide by the time, we need to have a framework of when they are going to do the same. Thank you, Mr. Temporary Speaker.

Hon. Okuku: Mr. Temporary Speaker, Sir, a point of Order. Is it in order for us to continue transacting business while the Clerks-at-the Table are all absent in the Plenary. Who is now capturing what we are discussing?

The Temporary Speaker (Hon. Abayo): Hon Elisha, that has been noted. When there is call of nature, let us allow it. The Chair is aware of that precarious position which we are in. In terms of the senior staff that will sit here, he is the only one that is coming back. Thank you.

Hon. Minami: A point of order just to follow up on this. Mr. Speaker, this Assembly has employed so many staff. Today is a special sitting and we don't know among the so many staff how many are out of duty because of sickness. Somebody somewhere is sleeping on their work because there is no way this Assembly can go on and you want to tell us that there is only one clerk when there are so many Clerks loitering within the building. If they are not able to do their work there is no way that the Chair can protect an incompetent bunch of people who call themselves Clerks.

The Temporary Speaker (Hon. Abayo): I want to say that that is noted, for the various reasons we have one Clerk, that the Chair is aware of. He requested to go out and is soon coming back. I want to ask Members that you take that in context.

Hon. Minami: Mr. Temporary Speaker, therefore according to procedure can we break so that we continue when they are ready.

The Temporary Speaker (Hon. Abayo): Quote the procedure.

Hon. Minami: Mr. Chair, I think you are conversant with the procedure, that is why you sit there as the chair.

The Temporary Speaker (Hon. Abayo): It is the Hon. Members that I want to ask that we would still be able to debate within a few minutes the clerk would be back. Any contribution on the Motion? Yes, Hon. Minami.

Hon. Minami: Thank you temporary Speaker for giving me the opportunity to contribute to this very important debate. About the Yearly Address that the Governor should be giving this County Assembly regarding the performance that the County Executive has done in each and every year.

Mr. Temporary Speaker, as rightly quoted in this Motion, the County Government Act Section 47(a) says that the Executive Committees shall design a performance plan to evaluate the performance of the County Public Service and implementation of the policy. That one has not happened in the last financial year. No reason has ever been given to this Assembly why this Report has not been brought to this House.

In other places, the violation of this Act would have amounted to impeachment of the Governor because it is very important that the Governor follows

2016 SIAYA COUNTY ASSEMBLY DEBATES

the law each and every time. The clause 2 of the Section 47 states as follows:

The county Executive should provide objective, measurable and time bound performance indicators. We are in a county where even the implementers of projects of policies don't know the requirement of this section. We are in a County where the year is coming to an end and somebody sitting somewhere, who is supposed to design the implementation of the project, 10 months down the line, has done nothing.

We are in a County where projects and activities are supposed to be implemented and done respectively and there is no policy that is going to guide the implementation. Moving down, the Executive should also provide linkages to the mandates that are conferred to them, but there is nothing like that. The Executive should also provide Annual Performance Report to the Assembly.

The Executive should ensure that citizen participation in evaluation of these Reports is done. You cannot stand somewhere as an implementer of a project giving your own focus without involving the target group; the people who get the service that you say you provide, without getting the feedback from the public, you can't provide that. This County has never gotten the opportunity to go and meet the people so that they can gauge on the projects so far implemented; how the people view those projects in terms of identification, implementation and even the usage of those projects after implementation.

Our Standing Orders section No.19 (1) gives the Governor an opportunity to address a special sitting of the House and he can do that every year or at any time that he feels he has an issue of County

importance and sit at the right hand of the Speaker, yet he is not using that as provided for in our Standing Orders.

When you consider all those factors, plus the supreme law of the land that is the constitution of Kenya section No. 83 part 3, which provides that the County Executive to provide the County Assembly with full and regularly Reports relating to the County. The Governor with his Executive is violating our very own constitution; leave alone the County Government act and our Standing Orders. The Constitution that is running this County is blatantly being violated as no one is trying to check out.

As I said earlier, these violations in a serious County should have led to impeachment of the Governor. The Governor doesn't need to be corrupt to be impeached; he doesn't need to be a tribalist to be impeached, by the mere fact that he has violated the Constitution, he should be sent home. I think as a County we should start thinking of how to send the Governor home for violating the Constitution that he swore to protect.

As I finish, the County Executive of Siaya, going by the formation factors, can be described as being led by myopic, innate, mediocre, incompetent and people who are clearly clueless in the performance and discharge of their functions and duties. This County, if we want to stabilize it, to see the fruits of devolution that so many of our fore fathers fought for, we should be sending this Executive in the next thirty days home if they can't bring the Report that we have talked of every year.

As an Assembly we can't sit here and clap, today I was ashamed beyond words when we were having lunch outside here when one of our colleagues whom am

2016 SIAYA COUNTY ASSEMBLY DEBATES

not going to mention, was telling us that, 'You continue making noise when we are eating in the Government.' We were with Hon. Shaban and a few members who can confirm this.

A Hon. Member of this House said that they are eating in the Government and they have money and that's up to you, you continue making noise, they are eating and the Governor will still be there. These are the kind of people who are bringing confusion in this County. These are the kind of people who are brought in this House because these people are not elected. These are people who have been given opportunity to come and represent a particular agenda and they turn the opportunity into an opportunity to eat, to dry the coffers of this County.

The Governor will never bring this Report because that Report is going to paint a very bad picture of the Executive. The Governor doesn't have a Report; the only one that he can bring to this House is the Report from the Auditor General which paints a very bad picture on how the Executive has been squandering and mismanaging public resources that have been bestowed on them. To date we have been talking about issues of health; what is the score card from the Governor's seat? What will he bring when even simple diseases like malaria and diarrhea continue to kill our people?

Look at the infrastructure in this county, starting with the road passing at the door step of the Governor. It's in very deplorable condition. What about the road in Muthe....., Nyamuga, Usenge, if the road leading to the Governor's office is in that condition? What about roads in our rural areas? The roads that some of us who are very loud in supporting the Governor

of this County use every day are pathetic and they get stuck.

Hon. Augo: Point of order Hon. Temporary Speaker,

The Temporary Speaker (Hon. Abayo): Yes, Hon. Augo.

Hon. Augo: Is it in order for the Hon. Minami to deviate from the motion and start condemning some other members of this House that they are supporting the Governor?

The Temporary Speaker (Hon. Abayo): Hon. Augo, I think that was on a light note, but the focus here is on the performance of the Executive and Board and should the Chair note that Hon. Minami would be using that opportunity to malign other members, the Chair would not allow that. Hon. Minami?

Hon. Minami: Mr. temporary Speaker, Sir?

The Temporary Speaker (Hon. Abayo): What is it? Is it a point of order?

Hon. Minami: Yes, exactly. It is a concern and a point of order. Is it really in order that one Hon. Member that we really respect use unparliamentary language? Is it allowed in the House? I don't want to mention names.

The Temporary Speaker (Hon. Abayo): Can you be specific because that is a point of order that needs to be addressed.

Hon. Minami: I was talking about Hon. Ndonji, who was actually talking in Luo and not all of us followed what he said. Is it allowed in this House?

The Temporary Speaker (Hon. Abayo): The Chair did not hear him. What did he say?

Hon. Minami: It will not be appropriate to go that direction for me to repeat what he said.

(*Interruption.*)

The Temporary Speaker (Hon. Abayo): ok, your point is noted. Order, Hon. Ndonji and just take your seat. If you did not use parliamentary language, then you better stop. I want to direct that all Members use parliamentary language and should the Chair note otherwise, then action will be taken upon Hon. Ndonji. Can we give Hon. Minami time?

Hon. Ndonji: Before you give Hon. Minami, people talk here when they are given opportunity but you have never given Hon. Ndonji the same.

The Temporary Speaker (Hon. Abayo): That's why the Chair has ruled that the two of you are not in order. Can you continue?

Hon. Oriaro: Mine is to ask if it is in order for the Chair to easily direct that the Speaker on the floor to retract the statement that if left will be demeaning to this House. If you can so direct, I can sit.

(*Interruption.*)

Hon. Oriaro: The Speaker has said it clearly that the only Report that the Governor can bring to this House is the Auditor General's Report. Is it parliamentary for the Governor to bring the Auditor General's Report to this House? Is it really in order? That's what I wanted to put forward.

The Temporary Speaker (Hon. Abayo): The Chair would want to note, I think Hon. Minami did talk about the Governor not bringing any Report to this House and he did say that the only Report that he would bring is the Auditor General's Report. Is that what you are saying?

Hon. Oriaro: I think, Yes Sir.

The Temporary Speaker (Hon. Abayo): What does that mean? So what is your point of order? I want to know so that I can pick it up.

Hon. Oriaro: The standard practice is how did the Auditors General's Report reach the House? It could be taken because it shall go on the annals of books of Histories and it will be captured forever, that is if it goes unchallenged.

The Temporary Speaker (Hon. Abayo): Hon. Minami, I think now you get the question, the issue is how the Auditor General's Report reaches this House. Would you then be able to put your position to be clear as regards that?

Hon. Minami: Thank you, I think I would like to help my friend, Hon. Oriaro. What I meant by that, if indeed I said so, is that the Governor does not have any Report to show any performance of Siaya County Government. The Report that he might be having at his disposal is that of Auditor General and if we force him to bring us the Report within 30 days he may bring us the Auditor Report that was provided by the Auditor General. That's the only Report he has. I didn't say that it is he who brings the Report to this Assembly and that's exactly what I meant. Can I continue with my contribution?

The Temporary Speaker (Hon. Abayo): Hon. Oriaro, do you think your question has been answered?

Hon. Oriaro: If it is all about circumnavigation, I accept.

(*Interjection*)

The Temporary Speaker (Hon. Abayo): Hon. Minami, take your seat and let Hon. Owii raise his point; it's only after that you can say if that information is irrelevant.

Hon. Owii: Thank you very much, Mr. Speaker, Sir. The information that I wanted to give is that we are trying to preempt this particular Motion. If we say now that whatever we want from the Governor is like we know he will not do, then why are we wasting time...?

The Temporary Speaker (Hon. Abayo): You are out of order, Hon. Owii you, are the one who is preempting. Let Hon. Minami finish and you will have your time to tackle any issues raised on the floor and also correct accordingly.

Hon. Minami: Thank you and now you have realized how we have wasted 2 minutes and no information given, I am strained after having been interrupted for about 10 minutes and also I want to affirm that I have not lost track on what I wanted to put across.

What I was saying is that, somebody sitting somewhere with Executive authority with qualified staff with all the resources and the law requires this person to bring an Annual Report.

Three years down the line and no single Report, we are not preempting anything; it's obvious that the Report is not there. It is like we want to drill water from a stone, which we won't get. I think it will be appropriate for this House not to cheat itself that asking this person to provide the Report within 3 months when he cannot do it in 3 years will be asking for too much from this person.

The issue of accountability to people who gave you power is what we are talking about. Because giving Annual Development, Design and Performance Management plan is about accountability and if somebody cannot do it in 3 years, this is somebody as I said clearly has exhibited highest levels of incompetence and highest levels of ineptitude that even if

he is given another one year we are not going to get any Report.

I think as an Assembly we should stand firm and I wonder why the Governor cannot bring Reports while all over the County we have E.C.D.E. centers, E.C.D.E. teachers have been deployed, we have water points like the one Hon. Aneme was mentioning here.

The County Government just bought water pumps for Kshs. 4 million; those are Reports and why can't somebody somewhere compile them? The County has been organizing Miss Tourism every year, the county has been issuing bursaries every year, and those are Reports. The tractors were just launched the other day and those are Reports. The Governor even right now is not in the Country and he has been travelling all over the world, he can write a Report. What is the problem? Is it that the door of the Assembly has been locked? Does it mean that they don't know where the Assembly is? There is so much they can Report.

The Temporary Speaker (Hon. Abayo): Hon. Minami, your time is nearly over.

Hon. Minami: Thank you, but you should consider the 10 minutes that were consumed.

The Temporary Speaker (Hon. Abayo): That was considered.

Hon. Minami: Thank you, I am saying the County Government Executive of Siaya has so many Reports that it can bring that we can even discuss for a whole month. But because someone somewhere knows that the issue of accountability is going to arise when this Report is brought to this Assembly and that's why somebody somewhere is having cold feet.

And as an Assembly, we rise up and demand whether it's a 1 page Report for the last 3 years. A Report should be brought to this Assembly because it's my sincere belief that the County Executive of Siaya has so many Reports that if tabled in this Assembly, we shall take ages to deliberate on. Thank you and I support the Motion.

The Temporary Speaker (Hon. Abayo): Hon. Oriaro.

Hon. Oriaro: Thank you, Number one, through the mover, I want to thank the Chair for having evolved the Motion we are transacting today and indeed other statutory Reports that the law dictates are brought to this House for considerations. It has been said all over and especially us in the CORD regions even though the Jubilee has also joined in the chorus especially in the Senate.

The issue of handling the Devolution, this matter was very clear on Wednesday when the Committee on Implementation visited the Senate and they used the opportunity of our visitation to air their concerns.; the future of Devolution.

The one thing that we cannot run away from is that by way of enactment of the Constitution of 2010, the Devolution has come over 60%, what remains is only 40%. The entrenchment of Devolution itself or its being delivery of the democratic good is all about respect of Law. Because Constitution itself is Law and the corollary legislations like the county government act, 2012 are there to strengthen it.

So here we are today, in the 3rd face, 3rd year of implementation of Devolution, we learn that a chronic case has evolved where the Governor as the institution and political head of the County is yet to grasp those laws. Fortunately, he

has gone to Law school and has Bachelors in Law, specializing in procurement, hence conversant with matters of Law which could have helped him propel this County a head of others headed by Governors who are yet to understand Law.

The Motion as it is today is very germane to an article that is in *The Standard Newspapers* page 30, Nyanza Western region entitled, "Rasanga alluding that MCAs are against his new University Dream," and I can read it, we started this University project long time ago but unfortunately, we have just been moving in circles and to date I still doubt if this construction has taken place.

The Governor tells the world because that paper is online and in the whole Country. But his Government had allocated 90 million towards the construction of that Varsity. If I can really help you, because it is the Chair that came up with the Motion which gave the Governor Timeline to furnish this House with the MOUs he had in place with Maseno university in the creation of a University we think of.

That one was a tether to one of the functions of the County Government, and to those matters County Assembly approvals that no activities should be done bordering on the approval of the Assembly. So when the Governor is out to taint the name of this hon. House on matters that have never surfaced here before by way of such annual address, progress like on this matter where he says he has got a budget and the Assembly gave him the opportunity to make public or even defy the content of that MOU, is really worrying if the Governor understands Devolution and he takes our name and that's why it forced me to counter that by telling him its public that

2016 SIAYA COUNTY ASSEMBLY DEBATES

MCAs have not denied him the power to construct or even oppose it.

MCA Oriaro said the Governor did not mention any thing to do with the University in the Annual Development Plans and County fails on strategy paper. It means that if truly that one were a function of the County government or in its plan... These are some of the things the Honorable Member is saying has got a lot to communicate to the House and to the County, we have gone to the issue of broadcasting and one cannot work, if we are really moving forth.

So, I support that the Governor has got no option but to unearth some of his successes of his County Government for the last 3 years. We are remaining with a few months to the general election and he will be looking for his term renewal.

They may be talking of free tickets, so is such a person ready to be given a free ticket by ODM if that is the case? Because it would have been in this Annual Report where at policy level we can know the problems he is facing as a Governor.

Hon. Oriaro: ---The Tourism potential of Lake Kanyaboli and Yala Swamp; the sitatunga. Right now, Dominion Farms Limited is getting almost Kshs. 70,000 every week because they charge. Can't we tap that area? This is where he can tell us the challenges he is facing. Or even issues to deal with cholera outbreaks; inability to do roads completely; why health facilities cannot be opened- like the four facilities in my Ward. We even allocated money for contracting healthcare givers like clinical officers. It is in such Reports that we can communicate with the Governor.

The Governor is free to come to the House anytime he wants. He has been

blaming us on matters of policy. This is the right forum that the Governor can demonstrate his preparedness to move the County forward. Many areas in his Departments are rotten. We have stated here the levels of malgovernance and impunity at the Executive. We have stated the Departments of Health, Water and Finance.

How did they use proceeds from the tractor hire services; the buying of seeds, fertilizers ET all? We are yet to know this! What did they get? To strengthen such, as Implementation Committee, we are not going to let you down. We are going to bring a Report on-- they are even operating a fund without the approval of the Assembly. It is in such Report like the Annual Performance Report that he would have even sought excuse for having breached legal provisions. I support.

Hon. Okuku: Thank you, hon. Temporary Speaker, Sir, for giving me this opportunity to rise and support the Motion. I first want to thank Hon. Abayo for seeing it wise to bring a Motion to compel the sleeping Executive to wake up. Allow me also to thank Hon. Joseph Agoko from Sidindi Ward for being the conduit of the Motion to the Assembly. I want to congratulate Hon. Were and Hon. Okite for being elected the substantive Chairperson and vice Chairperson of the Health Committee respectively.

Mr Temporary Speaker, Sir, this is a constitutional demand. It is not optional. This tells the County and the Country at large the sort of people we placed in leadership positions to drive forward the vehicle of devolution. I think we made a wrong choice of having bad drivers driving the vehicle of devolution. This is something that will take us behind as the

2016 SIAYA COUNTY ASSEMBLY DEBATES

County Government of Siaya. We are very many steps behind because of such characters. The Governor, the Executive, the CECs, COs are sycophants and confused people who cannot manage this great County.

Yesterday I was very much annoyed. We budgeted for a road from a place called Ka Jaoko Ugambi to Othach. About Kshs. 4million was approved by this Assembly for that road. The contractor on site said he has been given around Kshs. 2.5million. You then ask yourself, where is the other Kshs. 1.5million. I got the answer! If you miss a designed performance Management Plan, passengers in your bus will alight without you knowing the number of people you are carrying. If you don't have such plans, the Assembly will approve Kshs. 4 million for a road but the contractor will only receive Kshs. 2.5million. The contractors who are businessmen are the ones dictating terms for the County Government of Siaya.

Hon. Temporary Speaker, Sir, a County Government without a designed Performance Management Plan doesn't know where it is driving to. That is a fact. It is unfortunate for Siaya to have people who cannot think. There is selective implementation of projects in this County. Whatever suits them will be implemented; whatever doesn't suit them will not be considered. God brought us here either through election or nomination so that we can stand tall and speak on behalf of our people. We can still rescue whatever is remaining so that the people of West Gem who elected Hon. Abayo can say they got something.

This Motion should be taken seriously and we should ensure that within thirty days we have done a follow up. If there is nothing within thirty days, then we

can even impeach the sleeping Governor. There is a high rate of incompetence and I don't care attitude that must be dealt with.

Hon. Temporary Speaker, Sir, I want to rest my case by supporting the Motion. Thank you.

Hon. Were: Hon. Temporary Speaker, Sir, the debate in this House reminds me of a medical condition called somnambulism – that is a person who walks without consciousness. Sleep walking.

(Laughter)

Three years of professional insomnia is total dereliction of duty. To ask for a Designed Management Plan is not asking for too much from the Executive. It is not a privilege but it is our responsibility constitutionally. Performance appraisal is a managerial tool. It is evidence based. As Assemblers, we are merely telling our colleagues, the Executive, that morning has made visitation on us. Wake up! We are merely extending a free hand asking for evidence to be able to evaluate our performance.

People should not take this for granted because it is a critical situation that for three years, somebody who has been given a constitutional responsibility has not been able to perform. As an Assembly, we are merely knocking on the door that you have slept for too long, it is morning. I support. Thank you.

Hon. Owii: Thank you very much, hon. Temporary Speaker, Sir. First and foremost, I want to thank Hon. Jared Abayo, MCA West Gem, for coming up with this Motion. How I wish it was done earlier, because it appears that even from our side we have slept for too long. We have slept for three good years until Hon. Abayo decided to wake us up. We have to

2016 SIAYA COUNTY ASSEMBLY DEBATES

thank him for waking us up because the two families have been sleeping- the Executive and the Assembly. This is an issue of importance---

Hon. Oriaro: Point of order, hon. Temporary Speaker, Sir!

The Temporary Speaker (Hon. Abayo): Yes, Hon. Oriaro.

Hon. Oriaro: Hon. Temporary Speaker, Sir, as suggested by the Member on the Floor, is it possible for the Assembly to sleep or individual Members like him?

(Laughter)

(Applause)

Is it in order for him to put it that way?

The Temporary Speaker (Hon. Abayo): Hon. Owii, would you want to respond to that?

Hon. Owii: What is there to react to?

(Laughter)

You can't just react to all the emptiness; something that has no value at all!

(Laughter)

The Temporary Speaker (Hon. Abayo): Hon. Owii, kindly take your seat. Hon. Oriaro, be explicit so that Hon. Owii can get the spirit of what you are talking about.

Hon. Oriaro: Mr Temporary Speaker, Sir, already the audio has been captured, a Member saying you have woken up the House. In general, we are part of it. So, is it in order for him to say that we have been sleeping as an

Assembly? I believe it's only individual Members like him, maybe the Deputy Majority Leader could be sleeping. He had the powers to even come up with this. Some of us cannot do everything! Is it in order to put it on record that we have been sleeping? I have never slept! Even right now I am not sleeping!

The Temporary Speaker (Hon. Abayo): Hon. Owii, the Chair would want to mention that the Assembly may not be sleeping because the responsibility that we are talking about was to be undertaken by the Executive. The Assembly is just being courteous enough to give the Executive such latitude that would transcend beyond two years to give a Report. The Assembly has taken the opportunity to remind the Executive that they need to do what they need to do. I don't want you to respond, just continue with your submission.

Hon. Owii: Thank you for giving guidance. Let me say some section was sleeping. I don't know which one.

(Laughter)

Mr Temporary Speaker, Sir, I believe this is a constitutional mandate that is given to the Executive. I am one person that is not sleeping in this House. I am a contributor in this House just as Hon. Oriaro who is...

The Temporary Speaker (Hon. Abayo): Hon. Owii, get to the point!

(Laughter)

Hon. Owii: I am just about!

A Hon. Member: Point of order, Mr Temporary Speaker, Sir!

Hon. Owii: I want to say that it is actually a constitutional mandate for the Executive to be giving its Performance Management Plan. I want to thank the

Mover of the Motion because he has reminded us of one of our constitutional roles - oversight. Something has been going on wrong for too long. The County Executive Committee has failed in its work to deliver to us the Performance Management Plan to evaluate the performance of the county public service. This has been evident and I don't think it will be wrong to say they have failed in their work. That does not mean we are not a family. We are a family because the County Government is not like a house with many rooms. To me it's like a stone with many faces. We are one and the same thing. If the County Executive is failing, then we are equally failing as an Assembly.

There are issues that have been raised here. The first one was the issue of actually coming up with that plan. The second issue was the submission of the Annual Performance Reports of the County Executive Committee and the Public Service Board to the Assembly by the Governor. This is a mandate that H.E the Governor has failed to do. Now he has been reminded and we have given the Executive time to work on the same; such that within thirty days we can get the details of the same. I want to request that the Office of the Governor and the Executive should respect the constitution of this Country which has not been respected at all. The same applies to the County Governments Act, 2012. The two documents have not been respected at all.

I wanted to request, Mr Temporary Speaker, Sir, if you allow, that the timeline that is given here would actually make us address the issue next time when they fail. Why don't we accept that our eyes have been opened by one Hon. Member who has brought the Motion and we now wait

for thirty days so that we see the outcome of the same – if they are ready to submit the Report or not. This will help us move forward. Thank you, Mr Temporary Speaker, Sir. I support.

Hon. Aneme: Mr Temporary Speaker, Sir, I just want to thank the Mover of the Motion for being quick-witted and going back to the constitution to find out what has never been touched. This is an oversight that is going to shame all of us. It is indeed sad that the constitutional requirement has been forgotten by both of us, the Assembly and the Executive.

A time has come that we have to insist that whatever has been left behind should be rolled over. The financial year is coming to an end. In a few months' time we shall go home. Any failure on a constitutional mandate or requirement will not only be for the County Executive, but also the Assembly. All of us must rally behind the Mover of the Motion. I know that it will be difficult for them because they are people who will never appreciate anything that come from this Assembly.

We have to fight tooth and nail to make sure that the Executive doesn't blame us on their inefficiencies. This resolution should be taken to the Executive as early as tomorrow morning. If they fail to give us the Report, then we shall also be blamed because it will be seen that our insistence never yielded anything.

Thank you, Mr Temporary Speaker, Sir, I support this Motion.

Hon. Ndonji: Thank you, Mr Temporary Speaker, Sir. I stand to support this Motion but I also want to urge Members that when we are discussing such issues, people should not turn emotional by thinking that maybe somebody is being fought. Actually, if fighting somebody will

2016 SIAYA COUNTY ASSEMBLY DEBATES

make the County move forward, we don't fear doing that, Mr Temporary Speaker, Sir. I want to challenge Members who feel that when such a Motion comes and people are contributing, then probably it is aimed at the Governor. It is aimed at the Executive, which is headed by the Governor. As Members; we should not be shifting blames from where it should be and bringing it forcefully to the Assembly by trying to defend the Executive. We cannot say the Assembly is also complacent only because probably it took quite some time to raise the issue.

The Reports are very important because they enable us to assess and know what the County Government has done. Mr Temporary Speaker, Sir, each and every year there is the State of the County Address by the Governor. How do you have an address that is not based on any Report? It simply means that the annual addresses by the Governor are merely meant to hoodwink the people that the County Government is working. I stand to support this Motion, Mr Temporary Speaker, Sir, and because most Members have contributed positively, I request that the Mover be called upon to reply.

The Temporary Speaker (Hon. Abayo): Yes, I invite the Mover, Hon. Agoko to reply.

Hon. Agoko: Thank you, Mr Temporary Speaker, Sir. First of all, I want to appreciate Members for their very pertinent contributions, supporting the Motion and demanding that implementation of the same be done as soon as possible and the timeline set is complied with. All the activities to be done in the County are time bound and that is why we do our budgets on an annual basis. This means that everything should be done within the stipulated financial year. The

situation in Siaya where activities are not done within the laid time limits calls for action.

Thank you, Mr Temporary Speaker, Sir, I kindly request the House to support the Motion.

(Question put and agreed to)

ADJOURNMENT

Hon. Owii, Mr Temporary Speaker, Sir, having exhausted the business in the Order Paper, I rise to move a Motion that this House adjourns until tomorrow 5th May, 2016 at 2:30p.m. I call upon Hon. Munda to second.

Hon. Munda: Seconded.

The Temporary Speaker (Hon. Abayo): Hon. Members, let's stand up for adjournment.

(Hon. Members stood up in their places)

Hon. Members, there being no other business, this House adjourns until tomorrow at 2.30 p.m.

The House rose at 4.32 p.m.

THURSDAY, 5TH MAY, 2016

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

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

PRAYER**QUORUM CALL AT THE
COMMENCEMENT OF SITTING**

Hon. Speaker: Can the Quorum Bell be rung for about 10 minutes.

(The Quorum Bell was rung)

(Loud consultations)

(Quorum confirmed)

PAPER**REPORT OF THE COMMITTEE ON
SELECTION ON NOMINATION OF MEMBERS
TO SELECT COMMITTEES**

Hon. Speaker: Yes, Hon. Majority Leader.

Hon. Otieno: Thank you, Mr. Speaker, Sir, allow me to lay the following Paper on the Table of the House:-
Report of the Committee on Selection on nomination of Members to Select Committees

NOTICE OF MOTION**REPORT OF THE COMMITTEE ON
SELECTION ON NOMINATION OF MEMBERS
TO SELECT COMMITTEES**

Hon. Otieno: Thank you, Mr.

Speaker, Sir. I wish to give notice of the following Motion;

THAT, this House adopts the Report of the Committee on Selection on nomination of Members to Select Committees laid on the Table of the House today, 5th May, 2016.

STATEMENTS

Hon. Oriaro: Thank you, Mr.

Speaker, Sir. On a personal basis I have three Statements. I was supposed to read another Statement on behalf of Hon. Muhulah but I have abdicated it to Hon. Ndonji.

Mr. Speaker, Sir, pursuant to Standing Order 42 (2), I rise to seek a Statement from the Chairperson of Lands, Physical Planning and Housing Committee on the adjudication of a parcel of land No.1,204 on which Boro Catholic Church, Boro Community Centre, and Boro DO Residence stands, in Central Alego Ward.

In the Statement, the Chairperson should outline plans in place to bring on board all the parties who have a stake in the said parcel so that subdivision is done and subsequent independent ownership achieved.

In considering the request, the Chairperson should note that the stakeholders had written to the CECM for Lands in September 2015 asking for

2016 SIAYA COUNTY ASSEMBLY DEBATES

separation of ownership, however, they never got any response.

Thank you, Mr. Speaker, Sir. Do I proceed?

Hon. Speaker: Yes, continue.

Hon. Oriaro: Thank you. Pursuant to Standing Order 42 (2), I rise to seek a Statement from the Chairperson of Trade, Industry, Labour and Cooperative Development Committee on project involving construction of a two- door VIP latrine in Central Alego which was tenable in the FY 2014/2015.

In the Statement, the Chairperson should explain why BoroBodaBodaYouth Groups who were contracted to do the work have not been paid six months down the line; yet they completed the work and the latrine is already in use.

Thank you, Mr. Speaker, Sir. Do I proceed?

Hon. Speaker: Yes, proceed.

Hon. Oriaro: Pursuant to Standing Order 42 (2), I rise to seek a Statement from the Chairperson of Environment, Water and Natural Resources Committee on the implementation status of the following projects which were tenable in the FY 2014/2015 and the reasons for such status thereof:-

1. Rehabilitation and fencing of Uyugu shallow well at a budgetary cost of Kshs.200, 000.
2. Rehabilitation and fencing of Rarieda-Uyore shallow well at a budgetary cost of Kshs.200, 000.
3. Rehabilitation and protective fencing of Liganwa shallow well at a budgetary cost of Kshs.200, 000.
4. Rehabilitation and protective fencing of Komol village

community water project at a budgetary cost of Kshs.200, 000.

In the Statement, the Chairperson should outline interventions in place to ensure that these projects are completed.

Thank you, Mr. Speaker, Sir.

Hon. Ndonji: Thank you. Mr. Speaker, Sir, I have three Statement requests to make on behalf of Hon. Peter Muhulah, MCA West Alego Ward.

Mr. Speaker, Sir, pursuant to Standing Order 42 (2), I rise to seek a Statement from the Chairperson of Agriculture, Livestock, Irrigation and Fisheries Committee on the budgeted projects in West Alego for the past 2014/2015 financial year.

In the Statement, the Chairperson should;

1. Provide facts about the status of construction of a fish Banda at Nyalagi beach, taking note that a contractor had been identified and paid, yet no work has been done.
2. Explain explicitly the interventions, current or planned, to ensure that this project is started and completed.

The second Statement says;

Mr. Speaker, Sir,

Pursuant to Standing Order 42 (2), I rise to seek a Statement from the Chairperson of Roads, Public Works and Transport Committee on unfinished projects in West Alego Ward.

In the Statement, the Chairperson should;

1. Explain why the construction work along the Hawinga-Sirinde has not been completed, and measures in place to ensure that this road is

2016 SIAYA COUNTY ASSEMBLY DEBATES

dispensed with within this financial year.

2. Explain further, circumstances that have caused work along Sirombi road not to begin, long after the scheduled onset; considering that the said road has been rendered impassable by the raging rains.

Lastly, Mr. Speaker, Sir, pursuant to Standing Order 42 (2), I rise to seek a Statement from the Chairperson of Education, Youth Affairs, Gender and Social Services Committee regarding disbursement of bursaries for students in Siaya County;

In the Statement, the Chairperson should;

1. Explain circumstances that have put our students in this desperate situation where they cannot access Education services due to non-remittance of bursary funds;
2. State clearly measures in place to expedite the disbursement process and hence save the needy students the pain of staying at home against their statutory right to basic education.

Thank you, Mr. Speaker, Sir.

Hon. Speaker: The respective Committees to pick up the issues raised and report as soon as we resume.

Allow me bring to your attention that there was an earlier Motion drafted by the Chair of --- Committee which in my opinion is inadmissible because the Office of the Clerk didn't properly guide. These are matters that are within the Committee and cannot constitute a Motion because they are matters that were raised on this Floor, committed to the same Committee and the Committee cannot come back and expect the House to make a pronouncement yet they have not even

given a report. So, I will guide the Committee properly and therefore it's not a Motion for debate.

Next order!

MOTION

REPORT OF THE COMMITTEE ON SELECTION ON NOMINATION OF MEMBERS TO SELECT COMMITTEES

Hon. Otieno: Thank you, Mr. Speaker. Allow me to move the following Motion:-

THAT, this House adopts the Report of the Committee on Selection on nomination of Members to Select Committees laid on the Table of the House today, 5th May, 2016.

The report is with Members and all have the copy.

Hon. Ndonji: I don't have a copy, Mr. Speaker, Sir.

Hon. Speaker: Please make sure every Member has a copy of that Report. Hon. Members, just allow him to proceed. The substance in that Report, I know is just the inclusion of four Members joining some Committees.

(Loud consultations)

Hon. Otieno: Mr. Speaker, Sir, on behalf of the Committee on Selection, I have the honor and pleasure to present the Committee's second Report on the nomination of Members to Select Committees of the County Assembly.

May I take this opportunity to thank all the Members of the Committee for their input and valuable contribution during the Committee sittings. Go to page three and you will find the Committee membership. The Committee is made up of 11 Members. You will find that the

2016 SIAYA COUNTY ASSEMBLY DEBATES

Committee held 4 sittings from 23 February, 2016 to 29 February, 2016 for planning purposes and later converged in Kisumu on 21 March, 2016.

The Committee on Selection is one of the select Committees established under Standing Order No.153 which mandates it to nominate Members to serve in Committees, except for membership of County Assembly Business Committee and Committee on Appointments.

The Committee on Selection shall give consideration to the need for gender balance and shall so far as may be practicable, ensure that not more than 2/3 of Members of Committees in the County Assembly including the Committees established through the resolutions of County Assembly shall be of same gender.

The Committee considered the provision of Standing Order 154 (2) and nominated the following Members to the two Committees;

a.) Sectoral Committee on Education, Youth Affairs, Gender and Social Services, Hon. Jared Abayo and Hon. Sellah Okwako

b.)Sectoral Committee on Roads, Public Works, Transport and Communication, Hon. Walter Okello and Hon. Zilpah Omondi.

Mr. Speaker, the Committee recommends that the House adopts the Report of the Committee on the nomination of the Members to select Committees according to our Standing Orders. I now ask Hon. Gare to second.

Hon. Gare: Thank you, Mr. Speaker. I rise to second.

(Question proposed)

Hon. Oriaro: Thank you, Mr. Speaker, Sir. Recently we were out as an

Implementation Committee to visit our sister colleague, the National Assembly Implementation Committee. We also visited the Senate Sessional Committee on Implementation. We really learnt a lot and we are very optimistic that when we are back from recess, our report will be out.

Mr. Speaker, Sir, we transact and our business is very legal. Some are on a tether to representation, some on a tether to oversight and indeed on a tether to legislation. The business that we transact is what is conveyed to Executive for implementation. The weakness of implementation obviously will add something and it has affected this House.

We have adopted so many Reports and we also learn that we even passed Education Bill on bursary. A statement was alluding to that yet to be implemented Bill and it is a law. Remotely, you will learn that there are excuses on part of the Executive yet the Governor assented to it.

I have the right to support the names in underscoring the need to coming up with tenable and implementable recommendations. So if inclusion of Members in existing Committees will act as an impetus towards coming up with a legally upright, morally sounding transactions on this Floor, it has to be conveyed to the Executive and be seen by the entire world because the House is digital. Then I say amen on behalf of the Central Alego residents. I support.

Hon. Speaker: Very strong words. Yes, Hon. Ndonji.

Hon.Ndonji: Thank you, Mr. Speaker, Sir. I want to throw my weight behind this Report. Mr. Speaker, Sir, the main reason we constitute Committees is so that they can take up the job of the Assembly and come up with Reports that are very vital.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Mr. Speaker, Sir, for people to be added in a Committee, it means that there is some value these people are going to add. I want to start with the indicated Committee whereby the Hon. Jared Abayo has a wealth of experience in matters education and I am very sure that there is a lot that he is going to contribute there. When I look at Hon. Sella Okwako, I realize that she has a lot of experience in matters to do with life.

(Applause)

(Laughter)

Mr. Speaker, Sir, in the Committee of Education, Gender, Youth Affairs and Social Services; one thing I am very sure about Hon. Sella Okwako is that she is one of the people who represent the female gender in this Assembly and when it comes to social matters, she is also well versed.

(Hon. Okwako walked into the House)

(Applause)

As for the people who are going to be in the Committee of Roads, Public Works Transport and Communication, I want to say that we share a lot in Education Committee with Hon. Walter Okello and I know his prowess in executing what he is supposed to do.

Lastly, I want to talk about Hon. Zilpa Omondi with whom I also share another two Committees and I am very sure that she will be very resourceful in this particular Committee. I support the Report, Mr. Speaker, Sir. Thank you.

Hon. Speaker: Life and experience? Does it mean she is the oldest or is a medic?

(Laughter)

Yes, Hon. Were.

Hon. Were: Thank you, Mr. Speaker, Sir. I think the reconstitutions of these Committees have come at the right time but this Assembly should ask itself whether the reconstitution of these Committees will really work in our favour. We should look at their capacities.

Hon. Speaker: The Motion is not the reconstitution of the Committees; it is just a matter of adding some people in some two Committees.

Hon. Were: Fine enough. I am with you, Mr. Speaker, Sir, but we should look at the capacity of Members to be practitioners of their mandate. Looking at their level of competency that is infused in these Committees would really help them to meet their mandate. Then there is performance appraisal; three years down the line, have we been able to deliver? What are the impediments on our parts, the challenges and constraints; would we be able to have a cure? Already we have the budget and quite a number of Committees have run out of fuel within the last three months as we speak.

These are the issues that should be addressed as we look at the Committees, not merely membership. We should be able to facilitate the cost, that's why we are here. Otherwise I appreciate what has been presented and it is upon the selected Committee to look at other Committees that had been dislocated from other main Committees to accommodate the Members. Thank you.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Speaker: Hon. Deputy Speaker.

Hon. Adera: Thank you, Mr. Speaker. I also wish to add my voice to the debate. Mr. Speaker, just as one leader had indicated, nominating more Members to join certain Committees has got a purpose, and for sure the experience they have cannot be taken to waste.

Mr. Speaker, Hon. Abayo who has been mentioned here was a teacher and I don't know why he should not be in that Committee.

(Applause)

(Laughter)

Hon. Speaker: Order! Hon. Members, we all know that he has experience in life.

(Laughter)

Hon. Adera: Hon. Abayo should have been in that Committee right from the start, though nothing has been lost. I believe that even in the Committees where he has been serving, he has brought a lot of experience because he has a wealth of knowledge in education. The issues that are facing us today, including the issuance of bursaries to the students, I think the Committee that is going to be reconstituted will fast track so that the students can get bursaries as soon as possible.

Mr. Speaker, on a light note, the experience of Hon. Sellah should also be raised here and I wish to add that the County Government's mandate is to manage education in nursery schools and polytechnics. When you go to nursery schools, we have little children and most of us here do not have grandchildren, most

of us look young and I am the one who proposed that Hon. Sellah, being a mother and a grandmother, should be in that Committee.

(Applause)

This is so that Hon. Sellah can walk round the county educating or sharing with the teachers who were employed recently to manage ECDEs. This is an area where we have little children who need a lot of care--

Hon. Speaker: Hon. K'owii, are you on a point of order?

(Laughter)

Hon. Owii: I have a point of order!

Hon. Speaker: Yes!

Hon. Owii: Hon. Speaker, I wonder how you would have protected the House from the lies that came from Hon. Adera, the Deputy Speaker. He is not a Member of this particular Committee and I don't know where he made the proposal.

(Laughter)

Hon. Speaker: Hon. Members, we join Committees on proposals from political parties. May be as a Member of that political party or coalition, he proposed through the Whip that she be included.

(Laughter)

Hon. Adera: Of course we can even make our proposals along the corridors and whoever we give our proposals, we tell them that when you meet next time, ensure that this point is debated or this person is included in such a Committee.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Mr. Speaker, I was saying that, that kind of experience can only be got from few Members of this Assembly including Hon. Ngure, Hon. Sellah, Hon. Olongo; they are few.

Hon. Oriaro: Hon. Osuri!

Hon. Adera: Yes, and even Hon. Osuri! Mr. Speaker, very soon we need to include more Members and with those few remarks, I beg to support.

Hon. Speaker: Yes, Hon. K'owii!

Hon. Owii: Thank you very much, Mr. Speaker, Sir. I want to thank you very much for giving us time to deliberate on the same. I hope we have taken a very long time and some of us have been here, not even moving for lunch. We have exhausted this and we are just trying to repeat. Everybody wants to speak to gain some political mileage, maybe because Hon. Sellah is around. I want to request that if you allow, we can call the Mover to reply.

Hon. Speaker: Hon. Members, I shall call the Mover to reply, but I don't believe that Members speak to gain political mileage.

(Laughter)

Saying that would mean that we want to curtail your freedom in this Assembly. Will the Mover reply!

Hon. Otieno: Thank you, Mr. Speaker. Allow me to say the following; I appreciate the Members who have positively contributed. Members added into those various Committees just like you aptly put it, will add a lot of value in those Committees. You find that the issues raised were not negative, meaning the Members have overwhelmingly supported it, so I don't think we need to waste Members' time on this. Thank you, Mr. Speaker.

(Question put and agreed to)

(Applause)

ADJOURNMENT

Hon. Owii: Thank you very much, Mr. Speaker, Sir. Having exhausted all the Business in the Order Paper today, I stand to move a Motion that pursuant to the provisions of Standing Order 25, this House adjourns until Tuesday, 7th June, 2016, in accordance with the calendar of the same on regular Sessions. I want to call upon Hon. Angeline to second.

Hon. Odhiambo: I rise to second, Mr. Speaker.

Hon. Speaker: Okay, Hon. Members, may we be upstanding for adjournment.

Hon. Members, pursuant to the provision of Standing Order number 25, this House adjourns until Tuesday, 7th June, 2016, in accordance with the calendar of the County Assembly regular sessions at 2.30 p.m. in the Chambers.

The House rose at 3.09 p.m.

TUESDAY, 7TH JUNE, 2016

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

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

PRAYER**COMMUNICATION FROM THE
CHAIR****NEW STAFF**

Hon. Speaker: Hon. Members, before I welcome you to this House, allow me to recognize the presence of our new staff who are seated at our Public Gallery. The unfortunate bit is that I don't know their names but I would request them to stand up wherever they are then we welcome them in our special way. I would have read out their names but I don't have the list with me.

(The staff at the Public Gallery stood up in their places)

(Applause)

Secondly, I want to welcome you back to your House from the one month long recess. I'm hoping that you are energized enough for the business ahead of us. You will agree with me that this is one of the busiest Sessions we are having because we are going to consider the budget estimates and eventually have the Appropriations Bill done. It's equally a short one because we expect to go for another short recess from 8th to 18th July.

You are aware that once the budget estimates are laid before this House, the Assembly has about two months to consider the estimates and also have public input. To that extent, we therefore as a House must make sure that we adhere to

the timelines so that by 30th of June, at the latest, we would have passed the Appropriations Bill.

Allow me to also communicate to you that we have two memoranda from the Governor on decline to assent to some two Bills. They are the Siaya County Assembly Service Bill, 2014 and the Siaya County Wards Development Fund Bill, 2014.

In our next sitting, I shall make a pronouncement on the two Bills on whether we are proceeding to ensure there is publication of the Bills as Acts or whether we shall reconsider as legally sound.

Also allow me to communicate to you that already we have two legislative proposals. One is with Committee on Governance and Administration and which has my blessings following the report of the trip they made out of this County sometime back and they are really working on a proposal to make sure that within the shortest time possible we have a Bill emanating from their trip.

There is also another one from the Health Committee. I shall make a communication in our next sitting on whether the legislative proposal on The Siaya County Health Services Bill should be proceeded with or whether we should proceed with what is already in the hands of the Committee.

Finally, I know most of you will be asked when we are swearing in the representative of West Uyoma. As a House we thank the people of West Uyoma for

2016 SIAYA COUNTY ASSEMBLY DEBATES

conducting their campaigns and elections peacefully. As to when we shall swear him in will depend on when he will be gazetted. So, as soon as that person is gazetted and as soon as reasonably possible, this House will be ready to swear him in to start representing the West Uyoma people on this Floor. Thank you.

Next Order!

NOTICE OF MOTION

ADJOURNMENT

Hon. Speaker: The Hon. Majority Leader is not in, who is representing him?

(Hon. Andiego stood up in his place)

Do the notice of Motion on adjournment.

Hon. Andiego: Thank you, Mr. Speaker, Sir. I am on my feet to give notice that the House adjourns this afternoon.

Hon. Speaker: Next Order!
STATEMENT

Hon. Speaker: So, will that still be done by Member for Central Sakwa? Could you read the timetable on the Notice Paper? Proceed.

Hon. Andiego: Thank you, Mr. Speaker. Allow me to read our timetable for next week.

It is notified that the House Business Committee at their last meeting approved the following tentative business to appear in the Order Paper for Tuesday June 14th, Wednesday June 15th and Thursday June 16th.

Tuesday, June 14th a Report of the Select Committee on Delegated Legislation, Justice and Legal Affairs on

bench marking visit to the Senate in Nairobi in November 2015.

Wednesday, June 15th 2016- Morning Session, we shall have a Report of the Select Committee on Water and Irrigation on the incomplete work by China Jianxi International Kenya Limited and Jianxi Hydropower Construction Kenya Limited working on Siaya Bondo water supply sanitation project.

Wednesday, June 15th 2016- Afternoon Session, Report of the Committee of Water and Irrigation on the questionable charcoal levies at Akala market by Kenya Forest service officers.

And lastly, on Thursday, June 16th 2016- Afternoon Session, the Report of the Committee on Agriculture, Livestock Development and Fisheries on benchmarking visit to Machakos, Kajiado and Makueni Counties on solar power irrigation.

Thank you, Mr. Speaker.

Hon. Speaker: The Committee on Selection, you were supposed to give us a Report on the reconstitution of Committees. The Chair is not there, let me know from the vice Chair when this Report is coming.

Hon. Gare: Just as we had said before, I think Tuesday afternoon, the Report will be ready.

Hon. Speaker: So let it go on record that on Tuesday afternoon we shall be having two Businesses to transact; that being one of them. May the Clerks be advised accordingly. I'm also hoping that the Committees will have time to go through the Report so that what has been overtaken by events is not part of the Report that we shall discuss and put on the website. Time has really gone since you did the visits and maybe some of the recommendations you will realize will not

ensue as at this stage so that Members don't criticize the Reports for being late.

Next Order!

MOTION

ADJOURNMENT

Hon. Speaker: Yes, Hon. Member for Central Sakwa.

Hon. Andiego: Thank you, Mr. Speaker. Pursuant to the provisions of Standing Order 25(3), this House adjourns until Tuesday, 14th June, 2016 at 2.30 p.m. in the Chambers. This is to allow Members interrogate the proposed Siaya County Government Budget Estimates for the Financial Year 2016/2017.

Hon. Speaker: Seconding?

Hon. Andiego: May I call Hon. Madialo to second.

Hon. Madialo: Mr. Speaker, Sir, I stand to second.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: I urge Members that soon after the Speaker leaves with the Mace we shall reconvene to get communication from the Budget Committee on the same Business for which we have adjourned.

The House rose at 2.47 p.m.

TUESDAY, 14TH JUNE, 2016

The House met at the County Assembly Chambers, at 2.30 pm.

[Hon. Temporary Speaker (Hon. Lonah Adida) in the Chair]

PRAYER**COMMUNICATION FROM THE
CHAIR**

The Temporary Speaker (Hon. Adida):
Hon. Members, allow me to communicate to you that order papers are just outside by the entrance so that we can follow the procedures.

Again allow me to welcome students from Simenya Secondary and the procedure is, you just bow. Feel most welcome to the Assembly of Siaya County.

NOTICE OF MOTION

The Temporary Speaker (Hon. Adida): I call upon the Chair of Delegated Legislations.

Hon. Madialo: Madam Speaker, I stand to give notice of the Motion:-

THAT this House adopts the Report of the Committee on Delegated Legislation, Justice and Legal Affairs on Benchmarking visit to the Senate Laid on the Table of the House on Thursday, 30th March, 2016.

The Temporary Speaker (Hon. Adida):
Chair Delegated Legislations!

Hon. Madialo: Madam Speaker, I wish to move the motion:-

THAT this House adopts the Report of the Committee on Delegated Legislation, Justice and Legal Affairs on

Benchmarking visit to the Senate Laid on the Table of the House on Thursday, 30th March, 2016. I call upon Hon. Booker to second.

(Hon. Minami seconded the Motion.)

The Temporary Speaker (Hon. Adida):
Hon. Members, I propose a question:-
THAT this House adopts the Report of the Committee on Delegated Legislation, Justice and Legal Affairs on Benchmarking visit to the Senate Laid on the Table of the House on Thursday, 30th March, 2016.

Hon. Madialo: At the end of the provision, it's provided under article 4 of the Standing Orders.

Membership

The Committee is comprised of the following members:-

1. Hon. Sylvester Madialo
Chairperson
2. Hon. Booker Minami Vice
Chairperson
3. Hon. Stephen Kadera
Member
4. Hon. Peter Muhulah
Member
5. Hon. Pamela Midumbi
Member
6. Hon. Walter Okello
Member
7. Hon. Teresa Osore
Member

8. Hon. Andrew Omwende
Member

9. Hon. Hilda Otieno
Member

10. Hon. Fred Ouda
Member

Acknowledgement

Special appreciation goes to Hon. Members of the Senate Sessional Committee on Delegated Legislation, Chairpersons and members of the County Assembly Committees on Delegated Legislation, and staff who participated in the benchmarking.

The Committee would wish to extend its gratitude to the office of the Speaker and the Assembly Clerk for their support towards the planning and facilitating the benchmarking visit.

Madam Temporary Speaker, it is my pleasant duty, pursuant to Standing Order 180(6), to present the Report of the Select Committee on Delegated Legislation, Justice and Legal Affairs on the Benchmarking with the Senate Sessional Committee on Delegated Legislation and its counterpart committees of the five county assemblies for consideration by the House.

EXECUTIVE SUMMARY

The Select Committee on Delegated Legislation, Justice and Legal Affairs held a benchmarking meeting with the Senate Sessional Committee on Delegated Legislation and its counterpart committees of five county assemblies, namely: Kilifi, Bungoma, Meru, TharakaNithi and Embu on 19th November, 2015 at the Mini Chambers, County Hall, Parliament Buildings, in Nairobi.

The objective of the meeting was to build capacity of the Committee Members and to further share achievements, challenges faced so far in the execution of their mandate and to deliberate on issues of mutual interest.

This Report documents the proceedings of the benchmark which are contained in the three main chapters of the Report

During the meeting, the Senate Sessional Committee on Delegated legislation made presentations on the origin and development of Delegated Legislation Committee; background operational mechanisms and enhancing of delegated legislation, mandate of the Committee, tracking of delegated legislation and overview of the Statutory Instruments Act, 2013.

The participants had successful deliberations from which it was recommended that the Committee should:-

1. Forge a closer working relationship with the Senate Sessional Committee on Delegated legislation and Committee on Legal Affairs due to their overlapping mandates.
2. Form linkages with organizations such as Law Society of Kenya, Kenya Law Reform Commission, and State University of New York, among others for purposes of capacity building for members and secretariat.
3. Organize similar capacity building workshops for Members of the County Executive Committees and Members of the Committees on Delegated Legislation of the County assembly.

CHAPTER ONE

INTRODUCTION

The role of the Senate under Article 96 of the Constitution is to, among others, represent the counties, and serve to protect the interests of the counties and their governments. In the new political dispensation, there is need for the Senate to enlighten the county assemblies for the successful implementation of devolution.

During its meeting held on 29th January, 2014, the Committee on Delegated Legislation noted that their role in protecting counties under Article 94(1) of the Constitution included building capacity of members of its counterpart committees of the county assemblies. This was with the objective that the Members of the county assemblies would understand clearly the mandate of the Committee on Delegated Legislation and its operations.

It was against this that the committee resolved to hold regular consultative meetings with the counterpart committees of the county assemblies.

CHAPTER TWO

BACKGROUND

The outlines of the presentation were given as follows:-

- I. Establishment of the Committee on Delegated Legislation
- II. From a resolution of the House to a Committee of the House
- III. From establishment to operationalizing the Committee on Delegated Legislation

IV. Challenges

The Committee on Delegated Legislation in Kenya emanated from personal frustrations faced by Hon. Amina Abdalla as member of the 9th Parliament. There were unfulfilled government promises which put the legislative authority of parliament in jeopardy. The frustration about one of the subsidiary legislations which was developed under the Environmental Management and Coordination Act required an environmental impact assessment for every construction in an area already zoned for construction of a particular density. This prompted Hon. Amina to initiate the process of forming a Committee on Delegated Legislation.

After long discussions with the Opposition Whip, it was realized that important regulations were in some cases not even gazetted. The Opposition agreed to Hon. Muturi (then KANU Chief Whip), convinced Hon. Abdalla to deal with the wider problem of Delegated Legislations rather than focusing on a legislative challenge posed by this one subsidiary legislation. It was on this advice that she drafted a Motion on the establishment of the Committee on Delegated Legislation which read as follows:-

THAT, in view of the fact that
subsidiary legislation
should be consistent with
current statutes;

AWARE THAT certain
authorities have failed to
Gazette mandatory rules
and regulations as
required by the parent Act;

CONCERNED THAT some of the
delegated authorities have
been abused by the
concerned authorities by

gazetting regulations that are ultra vires to the parent law;

THIS HOUSE resolves to establish a Delegated Legislation Committee to scrutinise all subsidiary legislation.

The Motion on establishing a Committee on Delegated Legislation was debated and passed by the House on 21st April 2006.

From a Resolution of the House to a Committee of the House

There was a challenge in having the proposed Committee be part of the Standing Orders. Fortunately, the change of ruling party from KANU to NARC meant that both sides of the political divide had reason to change the Standing Orders. By the end of the 9th Parliament, the draft Standing Orders had agreed to include a Committee on Delegated Legislation as one of the new Committees. The 9th Parliament, however, came to an end before replacing the Standing Orders.

In the Tenth Parliament, despite not being a member of the House Procedures and Rules Committee, the then Speaker, Hon. Kenneth Marende co-opted Hon. Abdalla to the Committee that finally delivered the 2009 Standing Orders. Hon. Abdalla's presence in that Committee played a major role in maintaining the proposed Committee in the Standing Orders. This was because many members were not convinced of the need of having such a Committee.

From establishment to operationalizing the Committee on Delegated Legislation

Upon adoption of the Standing Orders, Hon. Amina Abdalla was appointed to the Select Committee on

Delegated Legislation and as is tradition, she was elected its first Chairperson.

The challenges faced were:-

- a) Weak legal regime for the making and scrutiny of subsidiary legislation

Despite the provisions of the Interpretation and General Provisions Act on scrutiny on delegated legislation, negligible tabling of subsidiary legislation had taken place since independence. The Standing Orders wanted the Committee to cause the tabling of these legislations –the question was how? What would happen to those ministries who decline to table? How do you change a long tradition of non-tabling?

- b) Where to begin the scrutiny?

It was not clear when scrutiny would begin, what would happen to the legislations gazetted prior to the establishment of the Committee, obtaining records of the list of Delegated Legislations that had been gazetted since independence and how to deal with emerging issues.

Action: they chose to be reactive to set up the structures for more proactive work such as amending legislation and developing tools.

- c) Lack of tools for scrutinizing delegated legislations.

There was no clarity as to what parameters to look at while scrutinizing delegated legislation.

- d) Low capacity and understanding of the mandate of the Committee .The capacity and understanding problem affected members of Parliament, staff and members of the executive.

- e) Gazette Notices linked to appointments

The fact that Ministers acted outside the parent Acts of Parliament while appointing Chief Executive Officer of state corporations and or Semi Autonomous Government Agencies (SAGAs) were the most complaints forwarded to the Committee for annulment. It reached a point where the committee concentrated on such matters of appointments that almost derailed its work.

CHAPTER THREE

OPENING SESSION

2.1 REMARKS BY THE CHAIRPERSON OF THE COMMITTEE

Sen. Judith Sijenji, the vice chairperson of the Sessional Committee on Delegated Legislation, welcomed Members to the retreat. She briefed Members about the role of the Committee, objective of the workshop and the expectations. She took the Members through the programme that was tailored to fit into the objectives of the meeting. Members then unanimously adopted the programme of the visit.

She quoted Article 94 of the Constitution which vested the legislative authority in Parliament. She noted that Members of the County Assemblies had been given powers by the Constitution to perform several duties, among them the power to supervise delegated authority. She mentioned that delegated legislation was a difficult area to oversee but with the support of SUNY (Kenya), Speaker of the Senate, Clerk of the Senate through capacity building, there would be a lot to learn through sharing of information.

She quoted Article 96(1) that empowers the Committee to engage with

the County Assembly Committee. It was within the mandate of the senate to supervise and oversee the work at the County Assembly level and to ensure that the legislations being passed were in order. She explained that the Committee had convened the meeting to discuss on the mode of engagement between the Senate Committee on Delegated Legislation and its counterpart committees of the county assemblies and further to understand the working dynamics of passing delegated legislation upon this basis.

The Senate Committee on Delegated Legislation had gone through a lot of transformation in terms of capacity building. Several forums had been organized and executed with the aim of equipping members with the necessary skills and understanding of the role of the committee.

The objective of the meeting was to enable the participants to understand the development of the Committee on Delegated Legislation, operational mechanisms of delegated legislation, mandate and scope of the County Assembly committees, overview of the Statutory Instruments Act and the best practices for tracking and documenting Delegated Legislation.

She proceeded by reminding members that citizens are more informed, more vibrant and rich in terms of their intellectual capacity. The Constitution had given them powers to participate in the law making processes hence the Committee had to be alive to that fact and ensure the citizen's rights are safeguarded. The Committees were reminded to follow up the implementation of their Reports.

She further informed the meeting that prior to the year 2006, the National Assembly did not have a Delegated

Legislation Committee. It was only when it was realized that there were a lot of delegated powers which were not being scrutinized that the National Assembly resolved upon a Motion moved by Hon. Amina Abdalla to form the Delegated Legislation Committee.

She urged members to strive to understand the Committee mandate and work closely with other committees, most notably the committee on Legal Affairs, for purposes of consultation.

Lastly, she assured the County Assembly Committee Chairpersons that the Senate leadership was ready and willing to work with the counties in any matter within its capability.

She informed the Members that SUNY Kenya was an international Nongovernmental Organization that operated in many countries. Their work was geared towards parliamentary strengthening through capacity building.

With the introduction of a bicameral legislature, Delegated Legislation Committee existed in the National Assembly, Senate and at the county assemblies. Such committees have a huge responsibility which could be overwhelming; hence they had to lay down strategies to execute their mandates promptly. She urged the committees to work complementarily and share ideas.

2.2 BACKGROUND, STATUS OF OPERATIONAL MECHANISMS AND

ENHANCING OF DELEGATED LEGISLATION

Delegated legislation, secondary, subsidiary or subordinate legislation was legislation made by authority of an Act of Parliament and delegated to lower tiers of Government by the constitution. It

included statutory rules, by-laws, ordinances, orders-in-council and various other “instruments” made by the executive.

Delegation of power to the executive raised issues of separation of powers. There had to be checks and balances to avoid executive overreach and misuse or abuse of power. It is law made by an executive authority under powers given to them by primary legislation in order to implement and administer the requirements of that primary legislation.

There are three types of delegated legislation;

- a) Statutory instruments which are regulations made by government departments,
- b) By-laws which are made by County Governments and local authorities, or public corporations, and
- c) Legal Notices issued by Cabinet Secretaries.

Reasons for Delegated Legislation

- The area to be legislated on may be technically complex, making it difficult to set out all the permutations in the original statute.
- The subject matter may be novel hence needing time to experiment and determine how the legislation is operating.
- The executive may wish to implement the legislation at a later stage or to alter its detail.

- An Executive with an onerous legislative timetable, or only a small majority, there is the temptation to pass skeleton legislation with the details being etched in by the minister

Rules to check Delegated Legislation

This must be constitutional with the statute or Act of parliament with other statutes, Acts or written law. These rules must be reasonable and certain; two maxims developed here: *delegate potestas non potest delegari* – a delegated authority cannot be again delegated, and *delegatus non potest delegare* – a delegate or deputy cannot appoint another. This shows that legislative organs like Senate, the National Assembly and County Assemblies may pass Delegated Legislation. These include standing orders, rules and regulations. She cited the following as laws governing Delegated Legislation:-

- a) Statutory Instrument Act No 23 of 2013 which provides for the making, scrutiny, publication and operation of statutory instruments.
- b) Paragraph 211 of the Senate Standing Orders Committee on Delegated Legislation.
- c) Paragraph 210 of the National Assembly Standing Orders ‘Committee on Delegated Legislation

Procedure to be followed when a statutory instrument is brought before Parliament

The Statutory Instrument Act No 23 of 2013 provides in section 10 for Parliamentary scrutiny of Statutory Instruments and set out the circumstances

and manner in which the statutory instruments, or provisions of the statutory instruments, may be disallowed, as well as the consequences of the disallowance.

Every County Executive Member responsible for a regulation-making authority shall within seven (7) sitting days after the publication of a statutory instrument, ensure that a copy of the statutory instrument with an explanatory memorandum in the manner prescribed in the Schedule shall be attached is transmitted to the responsible Clerk for tabling before County Assembly.

The Committee shall, in carrying out its scrutiny of any statutory instrument or published Bill be guided by the principles of good governance and rule of law. Subject to Section 16 of the Statutory Instrument Act, the Committee may exempt certain statutory instruments from scrutiny if the committee is satisfied that the scrutiny is not reasonably practical due to the number of regulations in that class.

The Committee shall then make a report to County Assembly containing only a resolution that the statutory instruments that stand permanently referred to the Committee be revoked.

Subject to section 11 of the Statutory Instrument Act, and so far as it’s practically possible, the Committee shall confer with the regulation-making authority for which the statutory instrument has been made and brought before the Committee for scrutiny, before tabling the Report to the County Assembly for their information and modification where necessary.

2.3 MANDATE OF THE DELEGATED LEGISLATION COMMITTEES OF COUNTY

ASSEMBLIES, THEIR ROLE AND SCOPE

She stated that Article 185 of the Constitution vests the legislative authority of a county on its County Assembly. Consequently, at the national level, Article 94 vests the legislative authority of the Republic on Parliament. No person/body can make a provision with the force of law except under the authority of the Constitution or legislation.

Article 94 (6) requires that an Act of Parliament or legislation of a county that confers the authority to make a provision having the force of law shall expressly specify:

- a) the purpose and the objective for which the authority is conferred;
- b) the limits of the authority;
- c) the nature and scope of the law that may be made; and
- d) The principles and standards applicable.

Section 14 of the County Governments Act provides for the application of the Standing Orders of the National Assembly to the county assemblies with necessary modifications pending formulation of their own Standing Orders. The County Assembly did revise the interim Standing Orders initially circulated at the inception.

Apart from the Constitution, the Statutory Instruments Act, and section 8 of the CGA define the mandate of the Committee.

Section 13 of the Statutory Instruments Act which is replicated in the Standing Orders mandates the Committee to carry out scrutiny of any statutory instrument or published Bill be guided by

the following principles of good governance, rule of law and report whether it-

i. is in

accord

with

the

Constit

ution,

or

other

law;

ii. infringing

on

founda

mental

rights

and

freedom

ms;

iii. contain

s a

matter

which

in the

opinion

n of

the

Committee

tee

should

more

properly

2016 SIAYA COUNTY ASSEMBLY DEBATES

- | | |
|--|---|
| <p>y be
dealt
with in
an Act
of
Parlia
ment;</p> <p>iv. contains
imposition of
taxation;</p> <p>v. directly or
indirectly bars
the jurisdiction of
the Courts</p> <p>vi. retrospective
effect;</p> <p>vii. Involves
expenditure from
the Consolidated
Fund or other
public revenues;</p> <p>Viii. is
defective in its
drafting;</p> <p>viii. appears to make some unusual or
unexpected use of the powers</p> <p>ix. conferred by the Constitution;</p> <p>x. appears to have had unjustifiable
delay in its publication or laying
before
Parliament</p> | <p>xi. makes rights, liberties or
obligations unduly dependent
insufficiently defined
administrative powers;</p> <p>xii. inappropriately delegates
legislative powers;</p> <p>xiii. makes rights , liberties or
obligations unduly dependent upon
nonreviewable decisions;</p> <p>xiv. imposes a fine, imprisonment or
other penalty without express
authority having been provided for
in the enabling legislation;</p> <p>xv. appears for any reason to infringe
on the rule of law;</p> <p>xvi. Inadequately subjects the exercise of
legislative power to parliamentary
scrutiny; and xvii. Accords to any other
reason that the Committee considers
fit to examine.</p> <p>Every Statutory instrument is required to
be accompanied by a memorandum
containing:</p> <p>a) a statement of the objects and
reasons of the instrument,</p> <p>b) a statement of delegation of
legislative powers</p> <p>c) a statement on limitation of
fundamental rights and freedom,
if any,</p> |
|--|---|

- d) a statement of its financial implication and if the expenditure is of public moneys.
- e) Consultations with the people.

2.4 TRACKING DELEGATED LEGISLATION AND DOCUMENTATION;

BEST PRACTICES FOR COUNTY ASSEMBLIES

Members were briefed about the National Council for Law Reporting.

It is a State Corporation within the Judiciary. It was established under the National Council for Law Reporting Act, No. 11 of 1994 and is mandated to:-

- I. Publish the Kenya Law Reports, which are the official law reports of the Republic of Kenya.
- II. Revise, consolidate and publish the Laws of Kenya.

Rules cited on Delegated Legislation:-

- *Delegatus non potest delegare* – rule against sub delegation.
- There is no general power to make delegated legislation
- Delegated Legislation must be based on /spring from parent statute
- Delegated legislation must conform to the parent statute. Meaning of each cause/word must be similar to the usage in the parent statute.

The Parent statutes contain the general broad principles of law while delegated legislation contains their

enforcement or implementation as the circumstances may determine.

In understanding devolution, she stated that it was important to note the following:-

- Devolution follows the multi-dimensional approach to governance.
- It organizes State Power along multiple lines - Vertically and Horizontally

However, Article 6(2) describes the governments at the two levels as being

DISTINCT (different responsibilities) and **Interdependent** (must work together/ not in isolation of each other) and which should conduct their mutual relations on the basis of consultation and cooperation.

Article 186 provides the principles that guide assignment of functions recognize three categories of functions:

- *Exclusive* functions which can be performed by only one level of government.
- *concurrent* functions which can be performed by two or more levels of government
- *residual* functions which reside with the original level of government which existed before the creation of the other levels of government

Article 185 provides for functions of the County Assembly. They exercise the legislative authority of the county to make laws that are necessary for, or incidental to, the effective performance and exercise of the powers of the county government. The legislative limits of the County

Assemblies are, however, set out in the Fourth Schedule of the Constitution.

All Regulations come to National Council for law reporting in the form of Legal Notices. So far only Nairobi County has sent their Statutory Instrument Legal Notices for Commencement dates of Finance and Tax Waiver Act.

Counties that wish to send their instruments do so through scanning and sending them to –
countylaws@kenyalaw.org

2.5 OVERVIEW OF STATUTORY INSTRUMENTS ACT, 2013

According to Section 2 of the Statutory Instruments Act 2013, ‘statutory instrument’ is defined as any rule, order, regulation, direction, form, tariff of costs or fees, letters patent, commission, warrant, proclamation, by-law, resolution, guideline or other statutory instrument issued, made or established in the execution of a power conferred by or under an Act of Parliament under which that statutory instrument or subsidiary legislation is expressly authorized to be issued.

Stages in the Making of a Statutory Instrument

Pre-Publication Scrutiny: this stage involves consultation before making statutory instruments. Before a regulation-making authority makes a statutory instrument, and in particular where the proposed statutory instrument is likely to have a direct, or a substantial indirect effect on business; or

- a. Restrict competition; the regulation-making authority shall make appropriate consultations with persons who are likely to be

affected by the proposed instrument.

In determining whether any consultation that was undertaken is appropriate, the regulation making authority shall have regard to any relevant matter, including the extent to which the consultation—

- drew on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument; and
- ensured that persons likely to be affected by the proposed statutory instrument had an adequate opportunity to comment on its proposed content

Involve notification, either directly or by advertisement, of bodies that, or of organizations representative of persons who, are likely to be affected by the proposed instrument; or
Invite submissions to be made by a specified date or might invite participation in public hearings to be held concerning the proposed instrument.

The requirement for consultation is mandatory before making of any statutory instrument. It is therefore upon the regulation-making authority to determine who to consult and the manner of consultation. The Act is clear on the class of the Statutory Instruments upon which consultation is a must.

Publication

Every statutory instrument shall be published in the Kenya Gazette and shall be assigned a serial number as of the year in which it is made which shall be printed on the face of the instrument.

Laying and tabling of statutory instruments before the Assembly

Every County Executive Committee Member responsible for a regulation-making authority shall within seven (7) sitting days after publication of a statutory instrument, cause to be tabled a copy of the statutory instrument before the Assembly. The instruments shall be tabled together with:

- a. Explanatory memorandum; and
- b. Regulatory impact statement.

Explanatory Memorandum is a statement that is prepared by a regulation making authority and it explains the purpose and operation of the statutory instrument. If any documents are incorporated in the statutory instrument by reference, contains a description of the documents so incorporated and indicates how they may be obtained;

Consequences of not tabling

If a copy of a statutory instrument that is required to be laid before Assembly is not so laid in accordance with this section, the statutory instrument shall cease to have effect immediately after the last day for it to be so laid without prejudice to any act done under the statutory instrument before it became void

Referral to the Committee

Every statutory instrument issued or made or established after the commencement of this Act shall stand referred to the Committee or any other committee that may be established for the purpose of reviewing and scrutinizing statutory instruments.

The Committee can also scrutinize statutory instruments previously published before the commencement of this Act. The provisions of the Act shall not apply to any rules, regulations and orders emanating from a court of competent jurisdiction in Kenya.

In carrying out its scrutiny of any statutory instrument or published Act be guided by the principles of good governance, rule of law and shall in particular consider whether the statutory instruments are in tandem with the certain principles as provided in the Act.

Report to County Assembly

The Committee shall make a report to the County Assembly containing only a resolution that the statutory instruments that stands permanently referred to the Committee be revoked. The Committee shall confer with the regulation-making authority for which the statutory instrument has been made and brought before the Committee for scrutiny, before tabling the Report to Parliament for their information and modification where necessary.

Commencement of Instruments

A statutory instrument shall come into operation on the date specified in that behalf in the instrument or, if no date is so specified, then, subject to subsection (2), it shall come into operation-

- a. on the date of its publication in the *Gazette* or elsewhere as may be prescribed under section 17(2);
- b. In any other case, on the date on which it is made.

If an instrument is made after the passing or making but before the coming into operation of the enabling legislation under which it is made, the instrument, whether or not it is previously published, shall not come into operation before the date on which the enabling legislation comes into operation.

Annulment and revocation

When a Report on a statutory instrument has been tabled in Parliament, the statutory instrument shall be deemed to be annulled if Parliament passes a resolution to that effect.

Where Parliament has adopted a Report or a resolution that a statutory instrument be revoked, the instrument shall stand revoked and the regulation making authority shall publish the revocation within fourteen days

CHAPTER THREE

OBSERVATIONS AND RECOMMENDATIONS OBSERVATIONS

1. There was need for the Committee members to be well informed regarding rules, procedures and the relevant legislations.
2. The mandate of the Committee overlapped with other standing Committees like the committee on Legal Affairs.
3. The provisions of the Statutory Instrument Act, 2013 were not aligned to the Constitution to incorporate counties.
4. There was need for capacity building for Members of the Committee and the Secretariat.
5. There was no legislation to define parameters for public

participation in the process of making statutory instruments.

6. There was need for an increased understanding of the mandate of the counterpart committees.
7. The County Assembly Committees needed to consult more with the office of the Clerk of the Senate on matters pertaining to legislation in the counties and more importantly in the domain of statutory documents.
8. A meaningful working relationship between the Chairpersons and Secretariat was important for a harmonious working engagement.
9. Strategic leadership is very crucial for the success of committees.
10. It was important to exercise vigilance in exercising its constitutional mandate and legislative powers to scrutinize subsidiary legislations.
11. There is need for public sensitization and creation of awareness on the mandate of the committee and provisions of the Statutory Instruments Act, 2013.

RECOMMENDATIONS

1. The Committee members to study and familiarize themselves with key legislative documents such as the

2016 SIAYA COUNTY ASSEMBLY DEBATES

- constitution, Statutory Instrument Act 2013, Standing Orders, briefing notes etc.
2. The Committee to forge a closer working relationship with the committee on Legal Affairs due to their overlapping mandates.
 3. The Committee to review the Statutory Instrument Act, 2013 to incorporate the counties in the provisions of the Act.
 4. The Committee to partner with relevant organizations such as Law Society of Kenya, Kenya Law Reform Commission among others, for purposes of capacity building for members of the Committee and the secretariat.
 5. The Committee to initiate legislation to define parameters for public participation in the process of making statutory instruments.
 6. The Committee to organize similar workshops with Members of the County Executive Committees and chairpersons of county assembly Committees to increase in-depth understanding of their mandates and in the spirit of forging a working relationship.
 7. The County Assembly Committees to consult with the office of the Clerk of the Senate on any matter pertaining to legislation in the counties and more importantly in the domain of statutory documents.
 8. The respective Chairpersons of Committees to establish meaningful working relationships with the secretariat for a harmonious working engagement.
 9. Committees to exercise oversight and make follow-ups in the implementation of recommendations in their Reports.
 10. Committee chairpersons to exercise strategic leadership for the success of their committees.
 11. Committee members to remain vigilant in exercising the Committees' constitutional mandate and legislative powers to scrutinize subsidiary legislations.
 12. The Committee to prepare documentations aimed at publicizing and simplifying the contents and meaning of Statutory Instruments Act, 2013 and operations of the Committee.

You cannot legislate by yourself and implement by yourself and so, Madam Speaker, that's one of the things and that's just an example, I don't want to go the Agriculture way on how you arrive on how many tractors are needed. That's one field where the Committee of Sports should have been given the regulations that should guide sporting laid in the Assembly and pass it over to Delegation Committee who then look at it and give it to the plenary

2016 SIAYA COUNTY ASSEMBLY DEBATES

and we arrive at payment as a legislative arm.

I want to argue that even if we were to suggest that some of those things might be a problem but it's something that's very easy. Expenditure too should be approved by Assembly and giving gifts to others who think they are fast is disapproved by the Assembly.

I want to sit down by encouraging my brothers and sisters that implementation call up --- we shall actively call up all enactments that have gone through this Assembly and where there is provision that implementation of that act should include any instrument then we are going to ask various chairs of the concerned secretarial committees to write to the executive. The majority leader is here, to call up those acts and ensure that the implementation of those Legislations come through. Otherwise, permit me to ask my brothers to support the adoption of the Report and particularly able Member for Central Alego.

(Applause)

Madam Temporary Speaker, before the year 2006, there was no Delegated Committee in Parliament and it was realized that a lot of delegated authority by Ministers was being exercised without scrutiny either by the Assembly or Parliament as representatives of the people or by the citizens themselves. We were then urged to strive to understand the

Committee mandate and work closely with other Committees, most notably the Committee on Legal Affairs for purposes of consultation.

There are three types of delegated legislation, one is Statutory, which are regulations made by the Government Department, two is By Laws which are made by County Government and the Local Authorities when they were there and three, Legal Notices issued by Cabinet Secretaries.

In conclusion, permit me to state the following; there are challenges in this County. As we talk today, one of them, if you allow me to quote or point out, is that one, the Cabinet Ministers or the CECs for example, in implementing for example the disbursement of bursaries. When the CEC in charge of Education comes up with a modality for distributing bursaries, that is delegated authority. And if that regulation is to conform with the test of constitutionality then that regulation must not be implemented without the Assembly saying YES it is constitutional, but the fact is out of perhaps ignorance, or perhaps disregard of the law, the methodology of arriving at the bursary distribution, in fact even coming up with a policy that everybody who is in a polytechnic is going to get the following amount of bursary, requires that this Assembly goes to do it and gives it approval, that does not happen in ---, and that is exercise of, because once the Minister issues it, it is law, that is exercise of delegated authority.

The challenges that we face, more so improper implementation, and indeed sometimes that we import unnecessary conflict between this Assembly and the Executive, is caused by the fact that perhaps our counterparts in the Executive do not appreciate, they lack the general

authority to enact delegated legislation, in fact they cannot enact it.

Madam Temporary Speaker, before this had been gazetted, those regulations ought to pass through the Committee on Delegated Legislation and be given approval by the Assembly. Allow me to quote or to remind us of one that happened in the National Assembly.

At one point, the former Cabinet Secretary for Transport came up and said, we are going to arrest people on the road, we shall put courts on that road and then we shall arrest you and charge you there. The reason those courts were removed was simple, that was law and he did not have the general authority to make such a law without going through the National Assembly through the Delegated Legislation Committee.

I wish to sit down but I want to state this, that I would wish to urge our Sectoral Committees, more so the Sectoral Committees that are charged with the honors of over sighting, over sighting a project implementation. We know them as Roads, Health, Agriculture, Water and Education, to be proactive so that before you okay, even the Budget Report, we seek to know if you have come up with rules. As the Committee on Delegated Legislation, has the Assembly gone through this and satisfied themselves that it is Constitutional and thereafter, has the Assembly gotten of it? And then, have you gazetted it with the authority of the Assembly?

Madam Temporary Speaker, I want to call on your attention because you are also the Chair of Education. On Saturday, there was Football, Netball and Volleyball, there were Sports. But, how did anybody arrive at how many teams will form a Ward Team? How you finance the teams,

how many games do you play so that is qualified as a County Sports event? How did you arrive at how much money you give number one as a token? Expenditure must be approved by the Assembly. Whether you are giving them Kshs. 7000 or Kshs. 20000, surely that authority was exercised by the Minister but she did not have the mandate to come up with it, to come up with it and then implement, you cannot legislate by yourself and implement it by yourself.

So that is one of the things that I have given as an example. That is one field where the Committee on Sports should have been given the regulations that will guide sporting, laid in the Assembly, passed it over to Delegated Legislation who then look at it and give it to the implementers and then we arrive at payment as a legislative. But I want to urge that even if we were to suggest that some of those things might be a little complex as ---but is something that is very simple, expenditure towards anything is supposed to be approved by the Assembly and giving gifts to individuals who can run and defeat others in running should be approved by the Assembly.

I want to end my contribution by encouraging my brothers and sisters to, at implementation call up those regulations and insist that those regulations are implemented after the Assembly has gone through them. I want to give an undertaking to myself and my brother, the Vice Chair that we shall actively call up all enactments that have gone through this Assembly and where there is a provision that implementation of that Act shall be through any instrument, we are going to ask the various Chairs of the concerned Sectoral Committees to write to the Executive, the Majority Leader is here, to

call up those Acts and ensure that the regulations for that implementation come through this Assembly. Otherwise, permit me to ask my brothers to support the adoption of this Report and particularly, my very able brother from Central Alego

(Laughter)

to support the document. I call upon Hon. Booker to second.

(Hon. Minami seconded the Motion)

(Applause)

The Temporary Speaker (Hon. Adida): Hon. Member for Central Alego!

Hon. Oriaro: Thank you, our able Madam Temporary Speaker. Number one, I agree with the Chair of Delegated Legislation on having suggested that I support the document. I have always asked myself, when we hear of benchmarking, I don't know if it is actual marking of the benches! The Committee was out on a benchmarking spree in 2014, fortunately they went for another benchmarking spree in 2015. Going by that span of time...

Hon. Muhulah: Point of order, Madam Temporary Speaker.

Hon. Oriaro: I don't know what is wrong with the son to my sister.

The Temporary Speaker (Hon. Adida): Member for Central Alego!

Hon. Oriaro: He is the son to my sister.

The Temporary Speaker (Hon. Adida): What is your point of order, Hon. Muhulah?

Hon. Muhulah: Madam Temporary Speaker, I want you to give guidance in this House. Is it in order for a

Hon. Member to talk about an official thing that has been mandated by this House, to visit the Senate as a spree? Is he in order?

The Temporary Speaker (Hon. Adida): Hon. Member for Central Alego, can you kindly stick to the Motion!

Hon. Oriaro: Madam Temporary Speaker that is Queen's English, so let the son to my aunt put it in context. It is very valid as per the Report that the Committee benchmarked and I believe they had a discourse on Delegated Legislation by a number of County Assemblies, it is in this report. Interestingly, the report has got nothing to do with benchmarking with those County Assembly Committees; it is only to do with the Senate one. What about, because that was the mission, we know nothing about their discourse on this matter with other County Assemblies, that is why I would call it a spree.

Having said that, this Report is so terse and unprecedented that I don't know how our colleagues will ventilate on it and thereafter adopt it, because a number of questions have been raised here. This is pure philosophy, the Report is not numbered but the fifth leaf and there is evidence over an epistemological outlook that is pure philosophy! Because epistemology is all about questions that require telablansas, the House, the whites etc., so, we expected answers to come out very clearly in this.

When they were benchmarking in the Senate, what is benchmarking? You go the other side you be lectured by just one Member, the Senate Sessional Committee on Delegated Legislation mandate, that Member to give a presentation, this is what I am at pains to indeed understand because I had thought

out of the challenges they decided to underscore at the Assembly.

To underscore as the Assembly this is what they ought to have showcased outside. They compare those challenges and then they come up with a way out, Madam Chair so that finally we easily implement. You have of course come back with a number of observations and recommendations but going by my perusal of the document itself, those recommendations and observations are ultra-virus; the body of the Report itself.

This is my main concern, Madam Chair, this is purely academic presentation. I am happy that at the end of the day that the Chair opted to give an overview outside the Report mentioning issues of the Bursaries, sports and an undertaking by the Executive which almost brought chaos in my Central Alego Ward and I would have believed that such off the cuff, had they been part of the Report, they would have formed substantive recommendations which are amenable to follow up by the Implementation Committee. So I am at pains to either support or reject. I have opted to fence sit. Thank you.

The Temporary Speaker (Hon. Adida): Hon. Member for East Ugenya!

Hon. Ndonji: Thank You, Madam Temporary Speaker, first I want to say that I support this Report, because the first things that we are supposed to be asking ourselves is that this train that was going to Nairobi, is there any value it is adding to our operations as an Assembly and as a County Government? The answer is yes.

I do believe they also talked about linkages with other organizations which I think has been wanting. There have never been linkages. I want to say that another thing that came out positively is that there

was capacity building at the same time I can say that that bench marking was there. I am very sure there was comparison of what you are doing here and what is being done at the Senate.

You don't have to say what you are doing here, benchmarking doesn't mean we have to say what you are doing but you can go and see what is being done there, compare it with your own. Because there is nothing that the Senate was expected to learn from Siaya.

So my take is that these people did a good job, they went for benchmarking and that is why you are seeing changes with how we have been doing our business. I am so happy to say that, when this team came back, they came back with issues to do with the procedures that are supposed to be done by the Executive.

As we speak right now, there are complaints that people are talking about not knowing how things are supposed to be done by the Executive and particularly on issues to do with sports that we are talking about right now. It is very funny that the Hon. Member who has just spoken can say that this thing is academic and he is the one who uses very big vocabulary which some of us even don't understand. So if he feels that this one is academic, then I think he should have been the first person to have understood what is written in this document.

Madam speaker, the Executive has had a tendency of making their own unilateral decisions and in case the Assembly is involved, it is normally given belated information just for the sake of it, that this is what we are doing. Therefore, I don't want to speak so much but allow me to say that this thing was done; it is timely, although it is quite late but I can say that the moment that we took it there I can say

it was quite timely. The main thing that we should do here is to ensure that what has been said there is implemented to the letter. Thank you, Madam Temporary Speaker.

The Temporary Speaker (Hon. Adida): Hon. Peter Muhula!

Hon. Muhula: Thank you, Madam Temporary Speaker, I must commend the Hon. Chair for delegating to my Chairperson and the Clerk to put all these words together and made this document. What we need to understand very clearly is that the institution of the Committee of Assemblies is the factory that generates the information of the Motions or ideas that are supposed to be discussed.

The essence of benchmarking as has been said by the Hon. Ndonji is that benchmarking is putting you also to test on what other people are doing on the other side. Visit by the Delegated Legislations to the Senate, was to compare how they performed here with the Senate the challenges are highlighted here and also the responses are here. I am wondering why the Hon. Member for Central Alego, who is my uncle can say that there are no recommendations and observations when they are clearly mapping. As much as we would have wanted it to be less academic, this is a legal document written by lawyers, who actually understand English as it has been posed in the queen's words which I shall not belabor to make people understand what this document is talking about.

When you look at point a. in page 12 of the 28th, it is strictly talking about the weak legal regime for the making and scrutiny of subsidiaries. Very few people get to understand the very instrument of constitution and subsidiary law that go with them. It is within this Committee

once you tell people that here is a clear distinction between the constitution and subsidiary. Unless we understand those things, we may come to this House and fail by mixing those two things and one of them has been cited by Hon. Madialo that the Executive can decide to do things the way they deem fit without the control of this House.

Again on page 18, the purpose and objective for which the authority is conferred is that on who has that authority. Is it this House that is mandated by the authority to make the laws to oversight the executive or it is the Executive that wake up early in the morning and arbitrarily come up with the laws and they want them acted on? It is within the powers of the Committee that we can bring instruments that bring control on the Executive.

Just very few days ago, I sit in the Budget Committee, before land Committee even scrutinized that we hear that there is a land of 1 acre that has been bought at Kshs.38.3Million. Did this Committee sanction that? No. Because they are overlooking the powers of this House, it is by way of benchmarking and understanding the mandate of this House that we are able to control the Executive.

(Applause)

Other than this power of understanding, if you have rogue Executive Members then they would take this House for granted. We must take the issue of bench marking very seriously and we would want to have such Reports put in this House and taken very considerably, that is the only way we shall do our mandate.

This House has a responsibility and the responsibility is to ensure that the law is followed to the letter and spirit. That is the only way this Executive arm of the

2016 SIAYA COUNTY ASSEMBLY DEBATES

Government will perform to the expectation or the need of the Siaya people. The reason they voted is because they wanted beyond 2013. Unless we understand these laws and we cannot even start by taking them seriously.

We have also done recommendation here as a Member of the delegated institution that we are also other institutions that if we are able to partner with them, then our capacity will be enhanced and that is Sunni State University of New York and we would want also the leadership of this House to take such capacity building initiative that we must include that in the budget for the enhancement on the capacity of Hon. Members of this House. That is what we have recommended here.

(Applause)

I want to plead with this House that please, accept this as it will be very difficult because of the English that is written here but after all am here I shall help you.

(Laughter)

The Temporary Speaker (Hon. Adida): Hon. Member for East Gem!

Hon. Minami: Thank you, Madam Temporary Speaker, for the opportunity that you have given me to contribute to the Debate. I think the first person who would have appreciated this Report would have been the Chairperson of the Implementation Committee. It is saddening that this Chairperson who all this House knows usually speaks English and today we have confirmed that he doesn't speak English, something tells you he is saying that this thing is so much academic that he cannot understand very simple English.

(Laughter)

For the avoidance of doubt, I would like to tell my colleague that if you don't understand the meaning of spree, the Implementation Committee 2 months ago, was on a bench marking spree. On the first week they went to the National Assembly to benchmark, the following week they went to the Senate to benchmark. Between the two Committees who is on a benchmarking spree?

(Laughter)

I think sometimes it is very important that you understand the intention of benchmarking and then you understand the findings and recommendations of those benchmarking so that whatever contribution you make is totally in the confines of whatever has been brought for discussion.

The Chair put it very clearly and I think Hon. Muhula has also put it very clearly that as an Assembly, we should always be aware of our mandate. Our major function here is oversight. And when you are over sighting and you don't know mandate, you don't know the laws that you have to use to oversight, you don't know the limit that your oversight can reach.

You don't know the mandate of the other person you are over sighting you don't know their limit then it appears as if you are quarreling.

This Committee went out very clearly so that it could benchmark. When it is captured in the Report about other Committees from other counties, the Senate Committee is the one that called those Committees because the requests from those Counties were the same. The issues that they wanted to discuss were the same, so the Committee plus the Committees from other Counties discussed. They have their challenges put

2016 SIAYA COUNTY ASSEMBLY DEBATES

here clearly and now we have, as a Committee, a Report that is going to help not only this Committee but also the rest of the Committees of this House. It is evident that this House has let the Executive to do some things outside the confines of the law.

Reasons might be that as a House, we were not aware that they were breaching the laws but I think with this Report, it is now very clear that there are some activities like those ones that were enumerated by the Chair while he was presenting that they first have to seek the approval of this House, especially on issues that are touching on finances. It is very important that this House gives those approvals so that the Executive can work within the approval.

You will find that in the financial year 2014/2015, this House allocated money that was supposed to be disbursed to the aged. I believe that up to date those monies have not been disbursed to the affected persons. What is the reason? There is no regulation that the Executive is going to use to disburse those funds.

It is very important that as a House, we are always privy to that kind of information. The Executive is disbursing monies to Community Health Workers or Volunteers; there is no regulation because those people are not employees of the County Government. They are being given stipends, where is the regulation that is supporting that? We have seen over the weekend what happened. What were the regulations used?

This Report highlights the challenges that are being faced by Assemblies in doing oversight roles because sometimes you cannot oversight what you don't know how to oversight, so it is very important that you come and inform the Assembly that whenever we are

carrying out our oversight roles, we are within the confines of the law.

It will be very important that the Committee on Delegated Legislation should seek an audience with the Executive so that they should also understand the importance of having regulations at all times whenever they want to implement things that need those kinds of regulations so that we don't always find each other at logger heads. I think this Report was supposed to be academic because in law there is no way you could write in another language, you must use lawful language so, there is no way we can change it.

The most important thing is that as an Assembly we have a document that not only helps in streamlining the operation of the County Government of Siaya but will also make sure that accountability and the rule of law is being followed whenever public officials are implementing whichever project or anything that is going to benefit the people of this County. Thank you very much and I support.

(Applause)

Hon. Odinga: First of all, I want to thank this Committee for bringing this Report---. One is that we are a legislative body and most of the things we do both in the plenary and Committee level is legislation. Madam Temporary Speaker, I have gone through this Report and when the Chair was taking us through and even giving some explanations as to the areas that he might not understand---

The Temporary Speaker (Hon. Adida): Hon. Member you must remember that when you are on the Floor making reference, it is Madam Speaker and not Mr Speaker, Sir.

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Laughter)

Hon. Madialo: Order! Madam Temporary Speaker.

The Temporary Speaker (Hon. Adida): Yes, Hon. Madialo!

Hon. Madialo: The Hon. Oriaro talked about queen, I wanted to support the information that if my brother, the Member for Ukwala is so possessive of the word Sir; then at the end he should be saying, “Madam Speaker Dame.”

(Laughter)

Hon. Odinga: Thank you, Madam Temporary Speaker. I specifically said Mr Speaker because I wanted to provoke you but I want to appreciate that today we have you. I started by saying that I am appreciating that Committee for the work well done and I said that we are a legislative body and that we need instruments that will always guide us. I have looked at this document and there are two areas of reference that will be referred to. When I am looking at procedures that is in page 16 and 28, you find that it is clearly stating the procedures that the House will need to follow and even quoting the relevant sections of these instruments.

I shall not go into reading; I just want to take Members again to refer to page 22 again but I know they will have time to read on their own where the most important part of it is the stages in making statutory. Madam Temporary Speaker, you remember that even during Budget making process, at times we are required to do Appropriation Bill or Appropriation Act. In most cases you find that we are caught with the time limits and we end up proposing it at the last day. My request is that if this Committee can liaise with other Committees and even the Budget and

Appropriation Committees in order to take Members through all these stages.

We know that in our Standing Orders they are clearly indicated but it is important that Members here understand the details, what are the stages in making statutory inputs. I want also to concur with what Hon. Minami said about legislation. I Chair the Budget Committee and quite a number of cases, the Executive has been making proposals of what they want to be budgeted for now and the next financial year and various financial years but quite a number refer to this because there are no legislation.

It would be important that we know specifically the procedures and stages of making these important instruments. I don’t want to take much of your time, I just want to ask my colleagues that we support this document so that it will assist us in developing other more important documents in the House. I support.

The Temporary Speaker (Hon. Adida): Hon. Member for Central Sakwa!

Hon. Andiego: First I want to appreciate the Committee on Delegated Legislation. However much some of my colleagues could not see what is in this Report, I want to say that this Report today for those who are here, is an eye opener to many of us and this is a Report that should not just be taken for granted in this Assembly, it is more important in our work at the Committee level.

It’s only two days when every Member of this Assembly was crying because of what is happening; and when we talk to our people, they tell us that these are the laws that we pass in the Assembly. When we tell them that we don’t know what they are talking about, then they think we are liars of the highest level.

Madam Temporary Speaker, we have suffered as legislators and representatives of the people in this County and I’m requesting that though the Report has been tabled and debated Here, we still need to go through it in our various Committees.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Madam Temporary Speaker, let's take an example of the Committee of Education that you chair. You had issues with recruitment of ECDE instructors and even right now as we speak, we know there is another one going on. The Executive just sits at a point and decides what to do without even consulting us.

At times they come to our Wards even without telling us what their mission is yet when there are questions; it is us to answer the people. I am of the opinion that after going through this, we should sit with the CECs and Chief Officers to make them understand some things. They may have the money, but before spending, it must be approved by this Assembly.

Madam Temporary Speaker, this is a very good Report and maybe you can consider taking us somewhere for at least two days so that we look at critically page by page. As Hon. Oriaro said, the grammar in the report may be difficult to understand at once; and so, there is need for Members to look at it keenly. This report will make us much effective if implemented. I support. Thank you.

(Applause)

The Temporary Speaker (Hon. Adida): Since there is no more contribution, I call upon the Mover to reply.

Hon. Madialo: Madam Temporary Speaker, may I thank all Members who have supported. Members have emphasised on a point which I also want to reiterate. Hon. Members, when we look at these Sectoral Committees, do not assume that the Executive knows. An example is the sports chaos; somebody who knows what he or she is doing cannot even think of doing that! And especially when it is uniform in thirty Wards.

Hon. Ndonji: Point of information, Madam Temporary Speaker!

The Temporary Speaker (Hon. Adida): Yes, Member for East Ugenya!

Hon. Ndonji: Madam Temporary Speaker, I just want to correct the Member on

the Floor that ignorance is no defence and therefore there is no excuse of people doing things wrongly only because they never knew. Now we know, but if we were ignorant, then we were also complacent and we are victims of circumstances. So, we cannot give the Executive a leeway of having excuses of not doing the right thing yet when they were getting those positions, they went through interviews, meaning they were supposed to know what they do.

Hon. Madialo: Madam Temporary Speaker, I stand corrected. I appreciate the point by my learned—not learned; this educated friend from East Ugenya is putting across.

(Laughter)

We have not seen some of the committees undertaking these activities, but we do know that even in CDF, those people down there do not come into office without the National Assembly looking at them and passing or approving the list. And so I want to reemphasize that the Implementation Committee that deals with what we pass Here and the Sectoral Committees, should ensure, and I have undertaken that we shall help each other in this one, should ensure that we call up all these so that we correct them before they get out of hand.

For example, we must call up the regulations that inform the implementation of sports activities so that we put down rules that must be followed uniformly in all the Wards. How do you give somebody a notice that there will be sports the following day! The committee knows it today and responds tomorrow. The MCA hears about the sports when people are fighting over unpaid dues and at that time it is the MCA who is accused of squandering the money. You look like a fool when you say, 'I didn't know.'

Madam Temporary Speaker, before I sit down, I want to urge Members, more so the Chairpersons of various House Committees, that we must not be in competition with each

2016 SIAYA COUNTY ASSEMBLY DEBATES

other. This committee and its ideas, the report clearly states, is an idea that came about because some ministers were abusing their powers and so it is a recent committee even at the National Assembly and the Senate. Infact, the Committee and the Senate was quite clear with us that they have difficulty there in getting ministers to give them regulations for approval.

Madam Temporary Speaker, it on this background that I thank Members for appreciating the Report and I urge them to sit down and where the regulations have not come, call them up. It is quite clear that it will go to the Chairperson of the Sectoral Committee who will then lay it and then it will stand committed to the Delegated Legislation Committee.

This means that if the Sectoral Committee fails to bother with it, the Committee on Delegated Legislation will do nothing about it. But my brothers and sisters, what do you oversight if the regulations that you implement do not come through you? What are you over sighting? You cannot oversight after the act; you oversight before the act.

You cannot allow, as we allowed, the sports to go the wrong way; and the Hon. vice Chair, sorry he is not there, clearly stated that there is money for the old people. Do we want to end up with disbursement by a committee we don't know and we have not approved? Madam Temporary Speaker, this falls within your docket.

We urge the Committee to write to the Executive and ask them to forward to you the regulations they would want to employ in disbursing that money and then commit it to a Committee which will then make a report and enable the gazettelement of those regulations.

Otherwise, Madam Temporary Speaker, the concerns of Members on the need for us to move together with this is noted and I thank them for supporting it. The Hon. Oriaro has smiled and that's an indication that he now supports. Thank you.

(Question put and agreed to)

(Applause)

ADJOURNMENT

The Temporary Speaker (Hon. Adida): Hon. Members, we have transacted all the Business we had for today, in view of that, this House now stands adjourned until tomorrow, Wednesday, 15th June, 2016 at 9:30 a.m.

The House rose at 3.45 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 15TH JUNE, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER

COMMUNICATION FROM CHAIR

Hon. Deputy Speaker: Hon. Members, I wish to inform you that from today henceforth, we shall be picking the Reports and Order Papers just before the entrance of the Assembly Chambers. So we shall not be distributing them as has been the procedure before. Take note of that.

Next Order!

PAPER

REPORT OF THE COMMITTEE
OF WATER, ENVIRONMENT AND
NATURAL RESOURCES ON THE
INCOMPLETE WORK BY CHINA
JIANGXI INTERNATIONAL KENYA
LTD AND JIANGXI WATER AND
HYDROPOWER CONSTRUCTION
KENYA LTD WORKING ON SIAYA-
BONDO WATER SUPPLY AND
SANITATION PROJECT

Hon Agoko: Mr. Deputy Speaker, Sir, I wish to lay on the Table a Report of the Committee on Water, Environment and Natural Resources on the incomplete work by China Jiangxi International Kenya Ltd and Jiangxi Water and Hydropower Construction Kenya Ltd working on Siaya-Bondo water supply and sanitation project.

*(Hon. Agoko laid the document on
the Table)*

NOTICE OF MOTION

REPORT OF THE COMMITTEE
OF WATER, ENVIRONMENT AND
NATURAL RESOURCES ON THE
INCOMPLETE WORK BY CHINA
JIANGXI INTERNATIONAL KENYA
LTD AND JIANGXI WATER AND
HYDROPOWER CONSTRUCTION
KENYA LTD WORKING ON SIAYA-
BONDO WATER SUPPLY AND
SANITATION PROJECT

Hon Agoko: I wish to give notice of the following Motion:-

THAT, this House adopts the Report on Committee of Water, Environment and Natural Resources on incomplete work by China Jiangxi International Kenya Ltd and Jiangxi Water and Hydropower Construction Kenya Ltd working on Siaya-Bondo water supply and sanitation project laid on the Table today, Wednesday 15th June, 2016.

MOTION

REPORT OF THE COMMITTEE
OF WATER, ENVIRONMENT AND
NATURAL RESOURCES ON THE
INCOMPLETE WORK BY CHINA
JIANGXI INTERNATIONAL KENYA
LTD AND JIANGXI WATER AND
HYDROPOWER CONSTRUCTION
KENYA LTD WORKING ON SIAYA-

2016 SIAYA COUNTY ASSEMBLY DEBATES

BONDO WATER SUPPLY AND SANITATION PROJECT

Hon Agoko: Thank you, Hon. Deputy Speaker, I wish to move this Motion:-

THAT, this House adopts the Report on the Committee of Water, Environment and Natural Resources on the incomplete work by China Jiangxi International Kenya Ltd and Jiangxi Water and Hydropower Construction Kenya Ltd working on Siaya-Bondo water supply and sanitation project laid on the Table today, Wednesday 15th June, 2016.

Mr. Deputy Speaker, Sir, the Sectoral Committee on Water, Environment and Natural Resources is constituted under Standing Order 192 (1) of the Assembly Standing Order, and is mandated to oversight, “All matters related to water, sanitation and irrigation services” has the honour and privilege to present the Report on the Statement requested by Hon. Leonard Oriaro on incomplete work done by China Jiangxi International Kenya Ltd and Jiangxi Water and Hydropower Construction Kenya Ltd on Siaya-Bondo Water Supply and Sanitation project.

2.0 Membership

The following are the Members of the Committee:

1. The Hon. Elisha Okuku, MCA
- Member (Chair)
2. The Hon. Peter Ombee, MCA
- Member (Vice -Chair)
3. The Hon. Hilda Otieno, MCA
- Member
4. The Hon. James O. Munda,
MCA -Member

5. The Hon. Nicholas Were, MCA
- Member
6. The Hon. Pamela Midumbi,
MCA -Member
7. The Hon. Teresa Osore, MCA
-Member
8. The Hon. Joseph Agoko, MCA
-Member
9. The Hon. Christopher Apiyo,
MCA -Member
10. The Hon. Pamela Ngure, MCA
-Member

Mr. Deputy Speaker, Sir, on 15th October, 2015, Hon. Leonard Oriaro, MCA, Central Alego Ward, did issue a Statement in this Hon. House on work done by China Jiangxi International Kenya Ltd and Jiangxi Water and Hydropower Construction Kenya Ltd on Siaya-Bondo Water Supply and Sanitation project and sought response on the following:

1. When the Chinese Contractor is going to lay water supply lines along Siaya-Nyandiwa-Yala Swamp road.
2. When the Chinese firm is going to lay both Water and Sewer lines along Siaya- Awelo-Futro road
3. Mitigation measures the County Government has in place to complete these projects should the Contractor wind up their operations without completing the above projects.

3.0 Background

The Siaya-Bondo Water Supply and Sanitation project is a Government of Kenya project that is a product of a loan from African Development Bank (90%) and partly funded by the Government of Kenya (10%). It commenced on 12th, March 2013 and was meant to be completed on 11th, June 2014.

2016 SIAYA COUNTY ASSEMBLY DEBATES

The tender for the project was Kshs.2B but the successful bidder had stated the cost as Kshs.1.6B. Since the Government had secured a loan of Kshs2B, the difference of Kshs.400M had to be put to use. This led to Additional Works (Addendum) over and above the original design.

The Siaya Bondo Water Supply and Sanitation project was divided into two components;

i). Lot 1; Water Supply Infrastructure (Contract No. LVSWSB/C/28/2011-2012 Lot 1)

Contractor

China Jiangxi International Kenya Ltd

Contract Value

Kshs. 1,252,960,437

Contract Commencement Date

12th, March, 2013

Contract Completion Date

11th, June 2014

Contract Period

15 Months (455 days)

Contract Period Elapsed

457 days (100%)

Reporting Date

29th, February 2016

Revised Contract Period

36 Months (1,116 days)

Revised Contract Completion Date
31st, March 2016

Revised Contract Period Elapsed
1,085days (97.3%)

Overall Work Progress to date
81%

Original contract progress to date
93%

Addendum contract progress to date
42%

Amount certified in last (IPC 12)
USD 1,242, 420.76+KES
18,463,651.43

Date of last (IPC 12)
23rd, September 2015

Amount certified to date
USD 10,143,491.80+ KES 149,
442,729.93

Percentage Value certified to date
excluding Advance payment
65.21%

Percentage Value paid to Date
(Cert.No.12)
65.48%

Amount paid to date
USD 8,901, 071.04+ KES
70,838,200.30

The main Contract comprised of
the following items;

	ITEMS OF WORK	% PROGRESS ACHIEVED
I	Preparatory Works	100%
Ii	Treatment Works	98%
Iii	Row Water Pipeline	100%
Iv	Rising Main	98%
V	Siaya Storage	98%

2016 SIAYA COUNTY ASSEMBLY DEBATES

	Tank(300M ³)	
Vi	Break Pressure Tank(Ngi'ya) 1000M ³)	98%
Vii	Gobei Storage Tank (3000M ³)	98%
Viii	Nyamninia – Ngi'ya Pipeline	95%
Ix	Ngi'ya – Siaya Pipeline	95%
X	Ngi'ya- Gobei UPVC Pipeline	95%
Xi	Ngi'ya- Gobei Steel Pipeline	97%
Xii	Gobei- Maranda Pipeline	96%
Xiii	Siaya Distribution lines	99%
Xiv	Bondo Distribution lines	97%
Xv	Electro Mechanical Works	60%
Xvi	Community Water Points (12M)	88%

**ADDENDUM WORKS
(ADDITIONAL WORK):**

Contract Value
Kshs. 312,614,644.62

Contract Commencement Date
15th, July, 2015

Contract Completion Date
30th, December, 2015

Contract Period
6 Months (168days)

Contract Period Elapsed
47 days (28%)

Reporting Date
31st, August 2015

The progress as at 8th, March, 2016
is summarized as below;

ITEM OF WORK	PERCENTAGE (%) PROGRESS ACHIEVED
i) Nyamnina Storage Tank (3300M ³)	99
ii) Repair of Existing Rising Main	99
iii) Elevated Steel Tanks	99
iv) Electromechanical Works	60
v) Community Water Points	95
vi) Buildings	99
vii) Siaya Distribution Lines	99
viii) Water Meters Supply	0
ix) O & M	100

2016 SIAYA COUNTY ASSEMBLY DEBATES

Equipment	
x) Access Road to Pump House	60

**Lot 2; Sewerage Infrastructure
(Contractor No
LVSWSB/C/28/2011-2012 Lot 2)**

Contractor
Jiangxi Water and Hydropower
Construction Kenya Ltd

Contractor Value
Kshs. 632,682,899.5

Contract Commencement Date
13th, March, 2013

Contract Period
15 Months
Contract Completion Date
4th July, 2014
Revised Contract Completion Date
31st, December, 2015
Reporting Date
2nd, October, 2015
Contract Period Elapsed
902 days (93.8%)
Overall Progress
98%

The progress of items of works under the
Contract is as below;

ITEM OF WORK	PERCENTAGE (%) DONE
i) Sewerage System (Siaya)	99.8%
ii) Sewerage System (Bondo)	100%
iii) Communal Ablution Block (Siaya 4 No.	99%
iv) Communal Ablution Block (Bondo)	99%
v) Waste Stabilization Ponds (Siaya)	99%
vi) Waste Stabilization Ponds (Bondo)	100%
vii) Utility Building and Site Works (Siaya)	99%
viii) Utility Building and Site Works (Bondo)	98%

4.0 Strategy Adopted

The Committee invited the CEC Member for Water, Environment and Natural Resources, and accorded opportunity to give her submissions on the matter. Hon. Members had an opportunity to engage the CEC Member on this matter during the meeting held on 29th October, 2015 at 10.00 a.m. and went for project inspection visits on 7th March 2016 and 8th March 2016

5.0 Summary of Deliberations

From the engagement with the CEC Member for Water, Environment and Natural Resources, She submitted a written report in which it was reported that:

1. That the Pipeline Extension ,Siaya- Nyandiwa is one of the distribution lines approved to be done under the approved addendum works among others

2016 SIAYA COUNTY ASSEMBLY DEBATES

within Siaya. The others are;

-Siaya-Boro Market Centre.

-Siaya-Segere School.

-Karemo-Barding.

It should be noted that it was initially planned that Siaya-Nyandiwa could go up to Bar –Olengo but owing to financial constraints, it has been agreed that the lines be terminated at Nyandiwa.

The progress achieved so far;

a). The line has been surveyed , designed and the working profile produced.

b). The Kiosk location has been identified at Nyandiwa Primary School.

The Contractor has started

working on the distribution systems in Bondo and Siaya .This is expected before end of May, 31st 2016 when the project is to wind up.

2. The laying of both Water and Sewer lines along Siaya-Awelo –Futro Road was in the plan for both Water and Sewer lines but was diverted to Segere. However, an ablution Block is in progress and approximately 80% progress achieved.
3. The project could not cover every area; however, the Department of Water, Environment and Natural Resources will endeavour to undertake extension works to areas not covered. The Department is therefore awaiting the project completion, commissioning and handing over, after which the necessary technical studies to identify

2016 SIAYA COUNTY ASSEMBLY DEBATES

areas for expansion can be undertaken and their budgets included in the subsequent Financial Year's Budget.

4. The project is designed to use gravity and this is beneficial because it will not use fuel for pumping..
5. Factors affecting the project negatively include ;
 - Way leave acquisition of Bondo and Siaya Addendum sewer lines
 - Some missing design drawings
 - The project did not receive interim payment for nine months

6.0 FIELD VISITS

Mr. Deputy Speaker Sir, The Committee proceeded on Project Inspection Visits on 7th March, 2016 and 8th March, 2016 and met the Site Agent and the Consultant Engineer.

Treatment Plant-Bondo /Siaya

The facility comprises primary, secondary and maturation chambers which are all complete .The contractor is

currently working on the access road to the project site. The contractor has built a modern toilet at Lwala K'awour primary school in Siaya town as part of Corporate Social Responsibility (CSR).

Ablution block

The contractor has finished working on 3 public toilets in Bondo and 6 in Siaya .There is one toilet in Siaya town next to Walias Supermarket that two private developers are claiming ownership of the land thereon and one has gone to court over the same. Consequently, work has stalled at 80%.Once the court case is resolved; the remaining bit including painting, elevated tank and connection to sewer line will be completed.

Gobei Water Reservoir

This is a tank with a capacity of 3300m³(3.3Million Litters) and is complete. Fencing of the facility is on-going. As part of Corporate Social Responsibility (CSR) the Contractor has constructed a modern toilet at Gobei primary school and is also putting up a basketball pitch for the school

Pap Nyadiel Break Pressure Tank

The tank has a capacity of 3300m³(3.3Million Litters) and is complete. Fencing is almost done.

Yala Pump House

This is a massive structure which comprises of several chambers; In-let, Flocculation, Sedimentation, Filtration and Clear water. The Pump House only has one turbine fixed to it but has provision for four more.

Nyamninia Water Reservoir

The tank has a capacity of 3300m³(3.3Million Litters) and is complete. The contractor is in the process of rehabilitating the rising main tank for

local use and putting up houses for staff on site.

Sigana water Reservoir

The project is almost complete but valves are yet to be fixed. Fencing is on-going .It has a capacity of 3300m³ (3.3Million Litters) The contractor has put up a public toilet at Pap Kakan primary school and an elevated water tank and community water point at Barding Secondary school.

Segere Water point/kiosk

The project is at Segere Secondary school .This marks the end of the project. The construction of the kiosk is almost complete.

Community Water Points in Gem Sub County

Water off take points in Gem Sub County are at Ondisore, Nyawara, Sawagongo and Masogo

7.0 Observations

Mr. Speaker Sir,

In view of the above, the Committee observed that:

1. The frequent change of Resident Engineer has resulted in missing design drawings which subsequently did affect the pace of work.
2. Despite Ugunja having the highest population among the urban centres in Siaya County, it has not been factored in the original design and budget of the project.
3. The project has taken an inordinately long period of time and has been extended three times from 11th, June 2014 to 11th June 2015 to 31st, December 2015 and now 31st May 2016. Consequently, the public has been denied the resultant services despite the project using a lot of public funds.

4. The component of contribution from Government of Kenya has never been paid.
5. Late arrival of turbines has also contributed to failure by the project to be completed on time.
6. The floor slab of the Pump House at Yala is suspended which is currently carrying 1 turbine and its ability to sustain the weight of 7 turbines is a design issue that is still awaits the determination by the Consulting Engineer.
7. Funding of the Project is 90% (Kshs.1.8B) African Development Bank (ADB) and 10% Government of Kenya (Kshs.200M).The Component from the Government of Kenya has never been received.

8.0 Conclusion

The Committee therefore noted that due to slow pace of the project, the people of Siaya County have been subjected to all hazards, be it drought, the recent cholera outbreak and other water borne diseases. Many households in the County do not have access to safe and clean water. Few who have taps, go for long without a drop of water. Sanitation service has been none existent

9.0 Recommendations

1. The County Executive to provide funds in subsequent budget for distribution of water from the Siaya- Bondo Water Supply project to all wards within the County.
2. The County Government to budget for payment of electricity in the initial stage

before the project becomes fully operational and dependent on gravity.

3. The County government to engage the Contractor to fast track the completion of the project.

10.0 Committee Submission

Mr. Deputy Speaker, Sir, On behalf of the Committee, and pursuant to Standing Order 192 (e) and (g), it is my pleasant duty to Table in the Committee Report on Honourable Leonard Oriaro's Statement on Incomplete work done by China Jiangxi International Kenya Ltd and Jiangxi Water and Hydropower Construction Kenya Ltd on Siaya-Bondo Water Supply and Sanitation project, this 18th, day of April, 2016, and urge that the Report be Adopted by this Honorable House.

Mr. Deputy Speaker, Sir, I rest my case by calling upon Hon. Elisha Okuku to second.

Hon. Okuku: Seconded.
(*Question proposed*)

Hon. Oriaro: Thank you, Mr. Deputy Speaker, Sir, for granting me the opportunity to be the first to ventilate on this Report. Sir, if you so wish, going by the fact that you are our able Chair and you are facing a great deal of trials, it would have been my wish that Members stand in a minute of silence in solidarity with you following the court issues you are currently facing.

(*Laughter*)

Hon. Deputy Speaker: Hon. Oriaro, you are out of order!

(*Laughter*)

Hon. Oriaro: Mr. Deputy Speaker, Sir, it was if you so wish, but if you don't wish---

Hon. Deputy Speaker: Hon. Oriaro, you are out of order. We only stand and observe a minute of silence when somebody has passed on.

(*Laughter*)

Hon. Oriaro: Then we can have a minute of loudness, Mr. Deputy Speaker, Sir!

(*Laughter*)

Hon. Deputy Speaker: Can you delve into the subject matter? Proceed!

Hon. Oriaro: Thank you, Mr. Deputy Speaker, Sir. First of all, I'm very much grateful and indeed I take credit for having created a platform where the Water Committee is making a debut Report on the Floor of this House.

(*Laughter*)

Unfortunately, it was not done by the Chair but by another Member. I would have thanked the Chairperson of water in this regard. Mr. Deputy Speaker, Sir, it was my Statement that has made this day be the way it is.

Hon. Deputy Speaker: Hon. Oriaro, are you uncomfortable that rather than the Chairperson, it's a different Member who signed the Report?

Hon. Oriaro: You know, these issues go on the HANSARD and it will go down in the annals of history. A good report has to carry the name and image of the Chair. So, remotely, it's like we are removing glory from the current Chairperson. That is my concern.

Hon. Deputy Speaker: Hon. Oriaro, I can see the report is signed and at the jurat I can see 'for'. That is procedural.

Hon. Oriaro: But the audio has someone else. Had we had the TVs, it would have been known who is doing it. We always even go on radio.

(Loud consultations)

Hon. Deputy Speaker: Hon. Oriaro, can you proceed with the substance.

Hon. Oriaro: I am happy that the Chairperson is also smiling. He is learning---

(Loud consultations)

(Laughter)

Hon. Deputy Speaker: Hon. Oriaro, I have said and it's now an order that there is nothing wrong with a Member signing on behalf of the Chair.

Hon. Oriaro: I recoil.

Hon. Deputy Speaker: This is not the first time a Member is signing a document on behalf of the Chair. We have done it before and it's done everywhere. If you look at the jurat you will see 'for'. I want you to avoid that direction and make your contribution.

Hon. Oriaro: Thank you. I have thoroughly read the report and I must say that the spirit of putting up a report involves taking cognizance of the fact of being economical with knowledge and the fact of being liberal with matters of truth. My concern is when the Chinese contractor is going to lay water pipe lines along Siaya-Nyandiwa-Yala Swamp road. This is a matter that was part of the initial design that led the company to be awarded the contract.

Mr. Deputy Speaker, Sir, I also want to know when the contractor is going to lay both water and sewer line along Siaya-Awelo-Futro road. This is also in consonance with the original design. My third concern is the mitigation measures the County Government has in place to complete these projects should the contractors wind up their operations without completing the projects. Going by the revelations of the report, we know that the contractor has had completion timelines extended and you realize that the last extension has also elapsed. Those were my main worries.

Before putting up the Statement, I had discourse with the authorities at the national government who came up with this. On realizing that there was a challenge, it forced me as a representative to use the Floor because this is where we have both de jure and defacto powers.

Mr. Deputy Speaker, Sir, the recommendations should help us move forth, but nothing has been captured in so far as my concerns are concerned. After going through the contract documents, we now learn that they are going to go up to Nyandiwa. We also know that because the national government had borrowed a loan, it forced them to add more works in a bid to cushion new eventualities.

The issue of chopping things because of financial constraints would be very much unfounded. It is captured here that both water and sewer lines along Siaya-Awelo-Futro road have been diverted to cater for Segere-Boro.

This report needed to have captured who prompted the diversion. Who was behind this decision? Siaya-Awelo-Futro road is part of the town and the population therein cannot be compared to the population of where the diversion

has been made. Who authorized this diversion? By the time I was doing the Statement, I knew all those things could happen and my main worry is why it took all that long to do the Report.

Was it to allow the forces of evil to divert gains of the people? This is my major concern. So one, the answers to my questions are not addressed here and we indeed needed these answers because even in County Governments this is a National Government though water is devolved to some percentage and it was the national government funding who did that interference away from article 1 of the constitution public participation. Who did for the people? Why couldn't it be by the people? Because the creation of the project was of and for the people.

Who came up to divert and to deny now a larger population of town west, South East Alego and Central Alego Wards? The answer is not part of this, so as the generator of this statement I am not satisfied.

It is in this Report that the forces of evil ought to have been made there and how to handle that would have been made clear here. In page 9 number 3 the Department is therefore awaiting project completion commissioning handing over after which necessary technical studies to identify areas of expansion. They are waiting for the completion and commissioning that is when they would start studies.

The project that we have at hand, if anybody had a chance to go through the document, has got tenable studies covering the entire County only that the scope was reduced. The County Government is still talking about studies waiting for money to spend or implementing it not even talking of maybe mitigating the fact of diversion

denying the people of the areas I have talked about. This is the height of malgovernance. Whoever did it, the Report ought to have captured a way of dealing with such. Thank you, Mr. Chair.

Hon. Deputy Speaker: Hon. Muhula!

Hon. Muhula: Thank you. Mr. Speaker, I was lost for some time because I am not able to get the Hon. Member's question and maybe fix it with the answers that are here. One thing we need to know, Hon. Speaker, is that I do not know whether this House has the capacity to discuss on something that they never involved themselves as contracts. This is a contract that was done by the National Government, and none of us here could be having that information to be able to actively participate in this debate.

The Hon. Member, Central Alego is talking about diversion. How have we established whether there was a diversion or that was the original program? They are talking about the scarcity of funds in this project; again this House has no capacity to determine whether the funds that were allocated are enough to undertake this project.

There is only one area which if we were to discuss, and then we would have that authority. On the summary of deliberation number 3, the project is awaiting completion by the Governance then the County Government comes in to plan the domestic distribution system, and that is in order. I think that we are going to react to things that we are not going to be able to solve as per the mandate of this House.

We know very well that water is actually devolved but the question is that the County Government is not allowed at any given moment to borrow money

unless they are guaranteed by the National Government. They have their own terms of reference which this House does not know about.

I think the best thing we would have added is let's dig more and only debate what is within the mandate and powers of the County Government. And whether we belabour here we cannot help to solve a contract between the Kenyan Government and the Chinese Government awarded to a contractor, County Government can do very little, until it gets to the point when County Government is able to budget for only the work they can do.

That is what I think has limited us in the understanding of this Report. We are opening something that we are not going to be able to resolve. Let's establish first of all how much money the contract was supposed actually to have consumed.

Mr. Speaker, secondly, some of these Reports come very late when they have even been overtaken by events. We are talking about a project that was supposed to have been finished by 31st of May. Today, we are talking about this thing on the 15th of June, what do we know that has happened that we are not able to authoritatively discuss in this House.

I think the best thing that we should do that I want to appeal to the Hon. Members is that I do not think this House has the capacity enough to discuss this case in front of us. Thank you.

Hon. Deputy Speaker: Hon. Ndonji!

Hon. Ndonji: Thank you, Mr. Speaker, I am also at a crossroads but first I want to commend the Committee not really for the job but for showing the House that a report doesn't belong to the Chairperson of any Committee and I want

to inform my colleague that the Report that comes to the House is from the Committee and not from the Chair of that Committee which means that any Member from that Committee can sign and any member can present it in the House depending on the arrangement within that Committee itself.

Coming to the issue at hand, while I appreciate the fact that we cannot debate what is in the jurisdiction of the National Government, I think there is an extent to which we can talk about it in as far as it affects the residents of Siaya. Whatever we are discussing here today, is from the Report that has been brought to the House.

There are some queries that are coming from this Report which probably I might have wanted to ask. Going through the report, you will find that when the report was talking about the communal abolition blocks they talked about foreign numbers in Bondo with 99% having been completed, in Siaya and when it comes to Bondo we are only being given the number which means that no proper research was done about it. If it means that no number was given then it should have been the same to Bondo as well as Siaya.

The Report indicates as my colleague, Hon. Muhula said Here, the work was supposed to be holed up on the 31st of May 2016 and I think, at this time that the Report is coming, we should have been highlighted as to whether it has been holed up. This means that we might be discussing on something that has already been holed up.

Talking about the diversion, I want to go back to the Report. I think it is page8, where the summary of deliberations number2. Allow me to read it the laying of both the water and sewer lines along Siaya Awelo road was in the plan for both water and sewer lines that was diverted to Siger.

2016 SIAYA COUNTY ASSEMBLY DEBATES

This diversion is coming to light from this Report and therefore we can also discuss it.

Hon. Minami: Point of order!

Hon. Deputy Speaker: Hon. Booker, what is your point of order?

Hon. Minami: I think that as the Chair, it is very important that you give us direction on the admissibility of this Report. It is very important to know that what we are discussing is within the jurisdiction of this House because we might discuss this thing for the next 3 or 4 hours and then at the end of the day there is no concrete outcome of the time and of the energy that we have used to discuss this.

As concerned residents, this project touches on about 3 or 4 constituencies: Gem, Alego, Bondo and maybe Rarieda. It would have been important that the person who brought it here would have discussed with the representatives of those constituencies because this is a project that was designed and funding sought by the National Government. This project has not been handed over to the County Government.

As Members of this Assembly, is it within our right to discuss this thing which eats out the outcome of our discussion and is going to have no effect on anybody? Please, give us direction so that we don't waste time.

Hon. Gare: On the same point of Order, Mr. Deputy Speaker, Sir.

Hon. Deputy Speaker: Ok, Chief Whip, you can make your contribution. Are you rising on a point of Order?

Hon. Gare: Exactly. Mr. Deputy Speaker, Sir, I want to say that as a House, we are confused. As it has been said by Hon. Minami, it is true that what we want to discuss today we don't know whether it

is within our jurisdiction or not but again the Member who sought this answers did that through this Floor but it is the same Chair who gave this to a Committee. It therefore means that we want to know from you if you found it admissible or not so that we discuss it. Thank you.

Hon. Deputy Speaker: Any more contributions?

Hon. Gare: Contributions for what? We are seeking your indulgence.

(Laughter)

Hon. Deputy Speaker: Hon. Chief Whip, you know even the Chair has to make a ruling. I must listen to both sides so that's why I'm allowing for more contributions, especially on the issue that has been raised on admissibility. Whether-, Hon. Oriaro take your seat.

Whether the matter is within our jurisdiction or not, I need to give Members time. I'm sure we shall find Members who will say that it is within our jurisdiction and some will say that it isn't. As procedure demands, I have to give both sides time to ventilate before the Chair makes the ruling, that's procedural. Now we are talking on admissibility.

Hon. Members, take your seats please. A matter of admissibility has been raised whether it is right within the Assembly or whether we should not discuss it. So I want us to confine ourselves within that. Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Deputy Speaker, Sir. One, I have talked to the secretariat here going through the Constitution. Water is a devolved function, as the secretariat shall point out to you. The fact that the funding was done by the National Government on a devolved function; the Constitution envisages the inter-relatedness of the two levels of

Government at the levels of even undertaking projects.

They can even chose to direct a function that the National Government can do on our behalf. This matter of admissibility is valid; I can quote the Constitution if given more chance, the devolved Government functions and the inter-relatedness of the National and the County Government. Thank you.

Hon. Muhula: Point of Information, Mr. Deputy Speaker.

Hon. Deputy Speaker: Hon. Muhula!

Hon. Muhula: Thank you, it is not water that we are discussing Here. Water is a devolved function, what we are discussing Here is this project and the National Government involvement in it. Do we have that capacity of discussing this project? We do not have, we are not discussing water as a devolved function.

That's why I was referring to number 3, that after this project is completed then the County Government can come in now and sign their own distribution system, from that point we can discuss it but from an agreement that was done between the National Government and the County Government. Surely, do we have any facts behind this? I believe there's.

Hon. Deputy Speaker: Hon. Abayo!

Hon. Abayo: Thank you, Mr. Deputy Speaker, Sir; I rise on the question of admissibility on this particular Motion. We don't need to belabour on this, I think the facts are so clear. First of all let me start by the heading of this report, incomplete works; the spirit of this report is that we would talk of incomplete if these guys had stopped the work. We are just talking about delaying works, the fact that

they are behind the period doesn't mean this is incomplete.

They have just delayed, the China or whatever team we are talking about working on this are still on the ground but on admissibility it has been mentioned a project done or is being done by National Government.

The Committee might have been previewed because this is a public document but we know of the designed works, we know of the scope of the work and I want to thank this Committee that they have gone out to unwrap about this and they have shared with us.

I want to agree with Hon. Members. This particular project, as a County Government, we have no jurisdiction over it at all until it is completed. Let me give you an example; in the forth coming budget, that is 1st July, 2016, West Gem wanted to extend water supply from this main line to other areas from County funding and other funding that have been sourced from elsewhere. We were told to forget it until the statement mentioned on number 3 is done and I want to repeat what Hon. Muhula has talked about and the person who brought this particular statement seemed not to have understood it.

It is only when page 9, number 3 is done and I was referring to the relevant authority that even my proposal I better give them, that they are the ones who make that proposal. Until and only when the works are done, the County Government of Siaya will do nothing on that Water project and that is a fact. Who allocated the budget?

We are questioning how much money was put in, who did it? Which particular Assembly had passed that budget and to do what? It is not the responsibility of this House; that would be the National Assembly. The issue of the diversion is critical and everyone would

want to know who did it, who took the action.

Those questions can never be asked and the company that did this work has no responsibility to respond to this Assembly as regards all this. Look at the recommendations; look at the relationship between the content, the substance of the Report and the recommendations.

The recommendations that are being put here would take effect after the number 3 that I have talked about. Ideally, these issues we have raised here, if I want to offer an advice to whoever brought this particular issue in this House, he would have gathered his facts the same issues as raised here and he would have handed them to Hon. MP for Alego Usonga to be able to present this message to the National Assembly and candidly raise the issues that works have not reached the areas of his constituency as raised by the person who brought this particular issue

My submission of this report and particular issue is not admissible in this House because this House can never take any responsibility as from Maras and in terms of omission or commission on any of these roads, thank you.

Hon. Deputy Speaker: Hon. Oriaro, do you want to say something?

Hon. Oriaro: Yes, I wanted just to add something that even on recommendation 3, the County Government should engage the contractor to fast track the completion of the project. This is not a project to be supervised by the County Government and I don't know how they will engage because they are not the supervisors of this contract. Has it said this discussion should give direction? Thank you.

Hon. Deputy Speaker: Hon. K'owii!

(Interruption)

Hon. Owii: Thank you very much, for the reasons that have been put by various

members, this particular issue or the project per se actually does not fall within our jurisdiction. We don't know the desired outcome for the project and if anyone knows let him table it because we should be speaking from the same informed point of view.

So if one knows why these people decided to divert what was to benefit another Community and now is to serve the interest of Segere Community, let him put it here because anything we bring to the Assembly has to be researched such that when you talk, you talk facts.

The last recommendation and which is key and I want to thank the Committee. Why don't we get concerned when these people will have handed over and see if County Government can come in and do the funding for further arrangement and possibly even completion in some places where we think it is necessary to wait for distribution or just mere contribution. So, I think this is completely not permissible in this particular area; it's only that we have energy and raw capital while everybody is enjoying.

Hon. Deputy Speaker: Hon. K'awour!

Hon. Awuor: let me just be technological...

(Interruptions)

Hon. Deputy Speaker: Yes, we want to see how you want to be technological, so let's leave Hon. K'awuor and see how much technological he can be.

Hon. Awuor: fast and foremost, allow me to thank my uncle, Hon. Oriaro for making this statement that is now opening up our eyes. If you are not careful, the Chair is under trial by missing and before committing that statement to the said

Committee I think he needed to have looked at the statement if it is admissible in this House.

There are issues that have been raised here which are really of concern to the residents of this County and what is now remaining before we go further to start with is because the intake of this project is within my area of Jurisdiction as well as my Ward, I have a lot to say but I can't do so before we get clarification from you whether this statement was admissible in this House in the onset. We are looking at you to give us direction and that's how technological I am.

Hon. Deputy Speaker: I have seen the technology débuted. Yes, Hon. Ndonji!

Hon. Ndonji: I may be less technological than Hon. K'awour because we have seen how technological people behave. I think when I started contributing on this issue I said that I was at cross roads; whether it was the right thing to do! Actually on admissibility, I want to say that it was taken to this Committee because to you it was admissible at that time, probably the Standing Orders were not referred to Hon. Oriaro because such an issue has never arisen in this House.

I want to say that the fact that it was committed to a Committee means that at that particular time the sitting chair was convinced that it was admissible.

But we also have to note that, that issue of admissibility has been brought up and I think it is upon you to decide and tell us whether it is admissible in accordance to law, Mr. Speaker Sir, because this is an issue that touches on the National Government, but as I had said earlier, we can talk about it not in terms of the project itself but in terms of the effect it has on the residents of Siaya County.

Secondly, I was wondering that if we have the recommendation here; where they were going to. Since the recommendations in most cases should be directed to the executive of the County Government of Siaya, which means that whatever passes through here should be going to the Executive who are supposed to implement what we pass in this Assembly.

In this case, it seems it has to go to the National Assembly, which means that in case we have it as an Assembly, it would go there as a petition which has passed through a Member of that Assembly.

Therefore, I feel that there should be more consultations so that we know the truth about it, so that we know what direction to take and that has to come from you, Mr. Deputy Speaker. Thank you, so much.

Hon. Owii: Point of order.

Hon. Deputy Speaker: What is your point of order?

Hon. Owii: Mr. Deputy Speaker, it appears that the contributor is not confused, only that he can't remember that two wrongs will never make a right! We have known initially where we are and it appears like he can still continue making mistakes, two wrongs will never make a right. Hon. Oriaro is talking but any time he is trying to communicate to us ---

(Laughter)

You should listen to me, because I am talking some sense.

Hon. Osuri: Point or order!

Hon. Deputy Speaker: Are you rising on a point of order?

Hon. Osuri: Mr. Deputy Speaker, the ruling that you are going to make as a Speaker will have a bearing in future. It is important when Statements are brought in

2016 SIAYA COUNTY ASSEMBLY DEBATES

this House in future, the Chair should look at them because they have cost implications.

The Committee has made a Report; they have made a lot of engagements with the contractor where they have extracted this information. They have had a series of field visits; they have got cost implications that may be detrimental to this House. So, as you make your ruling have that in mind, thank you.

Hon. Deputy Speaker: I believe I have not locked out any Member with contributions. Hon. Members, this is a weighty matter and just as one Member has already alluded, it's a weighty matter that will have a lot of effect in future, in our future dealings and any decision that we make in this Assembly will have effect, especially touching on the lives of the people of Siaya. I want to state that I shall be giving my ruling tomorrow in the afternoon.

(Applause)

I shall give my ruling tomorrow in the afternoon and before I close this for debate, I just wish to inform Members that our Standing Orders are clear. Once you have a Motion, Statement, a Petition or anything that should be discussed in the Assembly, the procedure is that it goes to the Clerk where it is registered then the same document is taken to the Speaker who will decide whether it is admissible or inadmissible.

Then it goes to the House Business Committee where it allocates time when the same matter will be discussed. Once it is cleared from the Speaker, it goes to the House Business Committee then from

House Business Committee it is brought to the Assembly.

Once it is in the Assembly, it must proceed, so the matter must proceed but it does not mean that the matter that has gone to the Committee still cannot be challenged, it can still be challenged, but you cannot say that the matter can be strangled right at the introduction level, where the Speaker must see it work.

Once the Speaker or a Member of the Speaker's Panel has cleared the matter to go to the House Business Committee and it is allocated time, it must be discussed in the Assembly and discussing it does not mean we can close our eyes when there is a problem.

I am not saying that there is a problem, do not interpret me in a wrong way, I am just saying, in case there is a problem still the Sitting Speaker can be informed or through his own decision he can decide to rule otherwise or to send the matter back. So I shall be giving my ruling within those parameters tomorrow afternoon. Next order!

MOTION

ADJOURNMENT

Hon. Owii: Thank you very much, Mr. Deputy Speaker, Sir. We have listened to what we discussed; we have exhausted our issues that we had in our Order Paper today, more particularly this morning. I want to move a Motion of adjournment:

THAT this House adjourns today until 2.30pm. I want to request my very good friend, name withheld.

Hon. Ndonji: I second, Mr. Deputy Speaker, Sir.

Hon. Deputy Speaker: Hon. Members, having exhausted the Session Business, the House adjourns until 2.30pm.

The House rose at 11.45 a.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 15TH JUNE, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER

**COMMUNICATION FROM THE
CHAIR**

NEW STAFF

Hon. Deputy Speaker: Hon.

Members, I wish to communicate to you that we have new staff that are already working for the County Assembly, they are now part of us. I wish to introduce them to the Members. I shall read their names then we can acknowledge them:

1. Francis Rakewa
– Principal Legal Counsel
2. Felix Otieno
– Senior Legal Counsel
3. Mercy Ooga
– Senior Legal Counsel
4. Dorothy Omondi
– Clerk Assistant
5. Allan Odhiambo
– Clerk Assistant
6. Christopher Omoro
– Clerk Assistant
7. Moses Audi
– Clerk Assistant
8. Brenda Madialo
– Clerk Assistant
9. George Sakwa
– Clerk Assistant
10. Kevin Masawa
– Clerk Assistant
11. Alexandra Adhiambo
– Clerk Assistant
12. Samuel Osore
– Intern from Maseno University

13. Irene Akinyi
– Intern from Rongo University

Thank you, in the course of time you will be interacting with Members and they may or may not ask you your names. You will know each other as time goes by. They may not have an opportunity to introduce themselves now but outside the Plenary, you are always free to ask. Next Order!

PAPER

REPORT OF THE COMMITTEE OF WATER,
ENVIRONMENT AND NATURAL RESOURCES
ON QUESTIONABLE CHARCOAL LEVIES BY
KENYA FOREST SERVICE OFFICERS FROM
KISUMU COUNTY AT AKALA MARKET

Hon. Agoko: I shall read on behalf of the Chair, who has a sore throat. I therefore wish to lay on the Table the report of the Committee of Water, Environment and Natural Resources.

*(Hon. Agoko laid the document on
the Table)*

NOTICE OF MOTION

REPORT OF THE COMMITTEE OF
WATER, ENVIRONMENT AND NATURAL
RESOURCES ON THE MATTER ON
QUESTIONABLE CHARCOAL LEVIES BY
KENYA FOREST SERVICE OFFICERS FROM
KISUMU COUNTY AT AKALA MARKET

Hon. Agoko: I wish to give a notice of Motion: -

2016 SIAYA COUNTY ASSEMBLY DEBATES

THAT this House adopts the Report on Committee of Water, Environment and Natural Resources on Hon. Peter Ombee's statement on the matter on questionable charcoal levies by Kenya Forest Service officers from Kisumu County at Akala Market laid on the Table today 15th June, Wednesday, 2016.

MOTION

REPORT ON QUESTIONABLE CHARCOAL
LEVIES BY KENYA FOREST SERVICE
OFFICERS FROM KISUMU COUNTY AT
AKALA MARKET

Hon. Agoko: Thank you, Hon. Deputy Speaker, I wish to move this Motion:-

THAT this House adopts the Report by the Committee of Water, Environment and Natural Resources on Hon. Peter Ombee's statement on the matter on questionable charcoal levies by Kenya Forest Service officers from Kisumu County at Akala Market laid on the Table today 15th June, Wednesday, 2016.

1.0 Preamble

Mr. Deputy Speaker, Sir, The Sectoral Committee on Water, Environment and Natural Resources is constituted under Standing Order 192 (1) of the Assembly Standing Order, and is mandated to, inter-alia, "*All matters related to water, sanitation and irrigation services*" has the honor and privilege to present the report on the Statement by Hon. Peter Ombee's Statement on Questionable Charcoal Levies at Akala Market by Kenya Forest Service Officers from Kisumu County.

2.0 Membership

The following are the Members of the Committee:

11. The Hon. Elisha Okuku, MCA
- Member (Chair)

12. The Hon. Peter Ombee, MCA
- Member (Vice -Chair)

13. The Hon. Hilda Otieno, MCA
- Member

14. The Hon. James O. Munda, MCA
- Member

15. The Hon. Nicholas Were, MCA
- Member

16. The Hon. Pamela Midumbi, MCA
- Member

17. The Hon. Teresa Osore, MCA
- Member

18. The Hon. Joseph Agoko, MCA
- Member

19. The Hon. Christopher Apiyo, MCA
- Member

20. The Hon. Pamela Ngure, MCA
- Member

Mr. Deputy Speaker, Sir, on 19th March, 2015, Hon. Peter Ombee, MCA, South Gem, did issue a Statement in this Honorable House on questionable charcoal levies by Kenya Forest Service Officers from Kisumu County at Akala Market and sought response for the following:

4. How the mandate of Kenya Forest Service which is a state corporation charged with managing forests in the country relate with that of county forest service management and specifically whether the officers from one county are allowed to collect charcoal levies from a different county.
5. What accounts for questionable charcoal levies at Akala Market given that an official receipt from Kenya Forest Service No. B 158019 dated 02.02.2015 shows that KFS officers charged

Kshs.200.00 per bag of charcoal as levy to a trader at Akala Market despite the provisions of the Legal Notice No. 104 published in the Kenya Gazette Supplement No. 132 in September 2012 which specifies that charcoal movement fee is Kshs.20.00 per bag.

3.0 Strategy Adopted

The Committee invited the CEC Member for Water, Environment and Natural Resources, and accorded opportunity to give her submissions on the matter. Honorable Members had an opportunity to engage the CEC Member and his technical teams on this matter during the meeting held on 20th May, 2015 at 2.00 pm and subsequently on 16th June, 2015 at 10:00am.

4.0 Summary of Deliberations

1. From the engagement with the CEC Member and his technical team:
 - i. That the CEC Member for Water, Environment and Natural Resources submitted a written report in which it was reported that:
 6. The Kenya Forest Service Act, No. 7, 2005 recognizes commercial charcoal production and transportation as a

venture that contributes towards sustainable management of resources(*see annex 3*);

7. The process of commercial charcoal production and transportation was legalized by Notice No. 186 of the Forest (Charcoal) Rules, 2009, Gazetted by Minister for Forest and Wildlife(*The Charcoal Rules give guidance on charcoal production in Kenya, and this legislation entrusts the Kenya Forest Service as the competent authority responsible for issuing licenses to regulate activities. Associations are given the responsibility to*

2016 SIAYA COUNTY ASSEMBLY DEBATES

facilitate sustainable production of charcoal, and ensure its members implement reforestation conservation plans amongst, other rules such as every forest conservation committee shall from its membership establish a licensing sub-committee.)

8. No charcoal trader is allowed to engage in business with unlicensed charcoal producer or transporter; and
9. A forest officer may at any time inspect the premises in which wholesale or retail trade in charcoal is being undertaken.

2. The CEC informed Members that upon receipt of the letter forwarding the Statement, he

informed the Ecosystem Forest Conservator for Kisumu County (Mr. Eratus Kibuka) notifying him of the questionable charcoal levies by KFS officers from Kisumu at Akala Market in Siaya County;

3. Mr. Kibuka raised the complaint with the Officer In-Charge, Enforcement Section (Mr. Edepi) condemning the act and conduct of the officers and directed that they restrict themselves to Kisumu County (*see copy of the letter in annex 2*)

5.0 In view of the above, the Committee observed that:

8. The levies charged on charcoal at Akala Market by KFS officers from Kisumu:
 - i. Are exorbitant since the Forest (Charcoal) Rules, 2009 provides that a trader in or transporter of charcoal to be charged Kshs.20.00 per bag for every bag beyond 5 bags- that 5 bags and below are not supposed to be charged(*see annex 3(i)*);
 - ii. The Ecosystem Forest Conservator for Kisumu County (Mr. Erastus Kibuka) did not address the main concern but only

reminded his officers to restrict themselves within Kisumu County;

- iii. The receipts issued to traders could not be traced either from the Hon. Peter Ombee or the Research office where the Statement was made.
- iv. Forestry is still a function of the national government and yet to be transferred to the Counties and as such the issue of refund is not feasible.
- v. In the devolved system, County Forest Management Committee is supposed to take over management of forests at County level from Kenya Forest Service but this Committee is yet to be established in Siaya County. Kenya Forest Service should manage national forests.

6.0 Conclusion

The Committee therefore noted that KFS Kisumu County was not keen on addressing the two main concerns: the fact that their officers had crossed over illegally and illicitly extorted money from residents of Siaya and; the need to refund the monies and charge the officers

appropriately. The Committee concluded that the CEC did not address the question appropriately although she contended that the officers who committed the act had been suspended without tabling any evidence.

7.0 Recommendations

1. Traders of charcoal to be charged Kshs. 20.00 per bag for every bag beyond 5 bags and that 5 bags and below should not be charged.
2. The County Executive to create the Office of the County Director for Environment and County Forest Management Committee to effectively deal with such and related issues.
3. Forestry officers from One County should not trespass and charge traders from a different County.
4. The department of Water, Environment and Natural resources should spearhead afforestation in the County to improve the forest cover that is the least among the 47 Counties at 0.42%.

8.0 Final Submission

Mr. Deputy Speaker, Sir, On behalf of the Committee, and pursuant to Standing Order 192 (e) and (g), it is my pleasant duty to Table in the Committee Report on Hon. Peter Ombee's Statement on Questionable Charcoal Levies at Akala Market by the Kenya Forest Service Officers, this 15th day of June, 2016, and urge that the Report be adopted by this Hon. House.

Hon. Deputy Speaker: Hon. Members, allow me now to propose the question:-

THAT this House adopts the Report of the Committee on Water and Irrigation on the Questionable Charcoal Levies at Akala Market by the Kenya Forest Services Officers Laid on the Table of the House today, Wednesday, 15th June, 2016. Hon. Ndonji!

Hon. Ndonji: Thank you, Mr. Deputy Speaker, Sir. First, I want to commend the Committee on the job they have done and I want to say that despite the fact that issues to do with forestry are under the National Government, I see some difference from what we had in the morning because in this case we are talking about a levy that is being charged exorbitantly against the people from the County of Siaya and more so, these were monies that were heading towards the County of Kisumu.

Despite the fact that I support this report, I think that there are some things that we ought to look into; for example, in the recommendations where the Committee has said that traders of charcoal to be charged Kshs. 20.00 per bag for every bag beyond 5 bags and that 5 bags and below should not be charged.

This leaves a loop hole because somebody can be having even up to 20 bags, and because this person is aware that they are not going to be charged for between one bag and five bags, this person can be bringing four bags per trip so that they escape paying for the bags they have.

For that reason, even if I support the document, I would like it to be amended so that there is nobody who is being exempted from paying the levy unless there are very special circumstances with good documentation; for example, if

it is people with disability and they are being exempted from taxation, that one is understandable.

When it comes to the number of bags, for people who are not challenged, (with any deformity) it will be very unfair to say that there are a number of bags that are not being charged. So, I am requesting that even if we are doing it, we have an amendment to that recommendation so that if they charge, it should be for every bag regardless of the number of bags that someone has.

Hon. Deputy Speaker: Are you done?

Hon. Ndonji: I want to move that Motion, Mr. Deputy Speaker, Sir.

Hon. Deputy Speaker: Before you move the Motion, I wish to refer you to the same report on page 4, under summary of deliberations, part A. The Kenya Forest Service Act, No. 7, 2005 recognizes commercial charcoal production and transportation as a venture that contributes towards sustainable management of resources. If you go down to B, The commercial charcoal production and transportation was legalized by Legal Notice No. 186 of the Forest (Charcoal) Rules of 2009. You had said that this is a National Government function and therefore the roles that we are dealing with here are laws that were enacted in the National Assembly which we cannot amend and we cannot make any changes on. So, before you think of making any proposal of amendment, you should think about those facts. You can proceed!

Hon. Ndonji: Mr. Deputy Speaker, Sir, first I want to say that even what you have read is silent on what we are talking about right now and here I am talking about what is in the report, such that in case we are adopting, because I

want to say so, but I don't know where that came from.

Hon. Deputy Speaker: Can you maybe direct the Speaker to be with you in what you are pointing out!

Hon. Ndonji: At times you might try to dare the Speaker and if the Speaker refuses to understand, you have to go by what the Speaker wants. But I wanted to say that, what you have read to the House is silent on what I am talking about and it has not directed on any levies unless I am in light shade on the criteria that the Committee used in deciding that people who have less than 5 bags of charcoal should not be paying levy.

I was only saying this in the context of the report that has been given to the House, such that unless it is written in law that there are some people who are supposed to be exempted, then we cannot decide to exempt them in this House without proper reasons for such exemptions. So, I was just saying that in case we are going pass the report, I wanted an amendment on that part, unless the Constitution is only saying that people who have less than 5 bags of charcoal are not supposed to be charged. That was my concern.

Hon. Deputy Speaker: You know the Constitution does not talk about everything. Like in this one we are talking about the Statutes which have been read out and of course the Committee could not go ahead to highlight everything that is in those Statutes. But in the report they made reference to those set of laws, so the charges are set in the law as enacted by the National Assembly and which County Assembly of Siaya has no mandate to amend. Hon. Ndonji, we cannot make such an amendment.

Hon. Ndonji: I have tried my best, Mr. Deputy Speaker, Sir, and I think I have to leave that one the way it is. In a nutshell, I am ready to support it but I am still confused as to whether to support it or not if that is not clearly defined to me. But I also wanted to say...

Hon. Deputy Speaker: If you so insist, then I wish to refer you to the annexures. You know you have only read the report and there are also annexures, so you better read the same before you make a decision.

Hon. Ndonji: Mr. Deputy Speaker, Sir, yesterday there was an issue of ---

(Loud consultations)

Hon. Ndonji: Mr. Deputy Speaker, Sir, I think you will have to excuse me today because I want to refer to what happened yesterday whereby the report was too academic and the annex is also too academic today such that I never managed to go through it. What I want to say is that, from the report, there is every indication that there are a number of structures that have not been put in place within the County. For example, the Forest Committee which I think, if we had those powers because I doubt if that one is under our mandate but if we have the powers, we could compel the people responsible so that this Committee comes in place. Generally, I support the report.

Hon. Okello: Thank you, Mr. Deputy Speaker, for the opportunity. Picking up from where Hon. Ndonji has left, I have very few concerns on the report. The first concern I have is that, on page 4, you realize that the Hon. Members had an opportunity to engage the CEC Member and his technical team on this

2016 SIAYA COUNTY ASSEMBLY DEBATES

matter during the meeting held on 20th May, 2015 at 2.00pm and subsequently on 16th June, 2015 at 10.00am.

We are receiving a report on a meeting that was held exactly 13 months down the line. As much as we would want to speak about this, a lot of things could have been overtaken by events, so I shall really hope that the mover of the Motion could have clarified what took so long for the report to be here, one year is a lot of time, a lot of things have happened, a lot of things could have changed, so we could be supporting or rejecting a Motion that is null and void in totality as Hon. Awour introduced us to the concept of totality/tautology, the other concern I have in this report...

Hon. Ndonji: Point of order, Mr. Deputy Speaker, Sir,

Hon. Deputy Speaker: Hon. Ndonji, what is your point of order?

Hon. Ndonji: Mr. Deputy Speaker, Sir, the Hon. Member has told the House that this report is long overdue, I wish he could clarify what he means by that because I don't know the time that this was supposed to be brought to the House. It is one year down the line but I doubt if...

Hon. Deputy Speaker: Hon. Ndonji, you are out of order!

(Laughter)

Hon. Okello proceed!

Hon. Okello: Thank you, Mr. Deputy Speaker, for your guidance. My concern was that, as time lapses, a lot of things change. It could have been in the best interest of the House if the Chair at least alluded to that. On my second point, in its recommendation, the second recommendation says that the County

Executive to create the office of the County Director for Environment and County Forest Management Committee to effectively deal with such and related issues.

Mr. Deputy Speaker, the concern I have here, all of us are aware that this County has been battling with the debate of Wage Bill and creation of offices that may be redundant. I didn't find any justification, especially if you look at this report why there should be a creation of an office specifically to deal with this matter of charcoal.

I think we know what offices are supposed to be for and I believe the office of the County Executive Committee Member for Environment as it were is fully equipped in terms of the personnel, in terms of resources, to discharge their duties quite effectively. We don't have to go into the redundancy of employment and creating another office, another Director; that will be another opportunity for people to employ their relatives, for the sycophancy and clanism that we have been witnessing. I don't think as an Assembly that is the way we want to go, it will be in contrast to the same Committee's report which on page 5, No. 5, says that in the devolved system, County Forest Management Committee is supposed to take over management of forests at County level from Kenya Forest Service but in Siaya County this Committee is yet to be established. In consistency with what the report has in the previous paragraphs, it would have been sufficient if it said that in Siaya County we need to have this Committee in place to take care of the issues of forestry and charcoal.

Finally, as much as charcoal production and charcoal processing is a source of livelihood, concerned about the

sustainability of this practice, this report already observes that Siaya County is the only County that has the least forest cover, at 0.42%, that is quite low given that the National average is way beyond that, at about 5% in terms of forest cover.

This Committee as well as the Department could have taken advantage of this Statement request by the Hon. Ombee to really speak into the issue of forest cover and environmental protection of this County so that we have a robust process of ensuring that our County forest cover goes up.

By doing so then we would have thought about the people who are burning and selling charcoal, if we can get alternative source of income for them and the first step will be to do a census to know how many charcoal burners we have in Siaya and if it is sustainable. As much as we want to focus on the revenue generation from the forest from the charcoal burners, sustainability of this venture at the end of the day may not be achievable. With those few submissions, I am really at a loss whether to support this document but I believe it is a good point of variation going forward. Thank you.

Hon. Oriaro: Thank you, Mr. Deputy Speaker, Sir; I shall support the document in its entirety and in giving buttress to that, it would be my wish to disagree with two Member colleagues who have spoken on substantive grounds. We all know that the initial report was not a preliminary one. Mine is still white hot as regards the Report that was rejected on the same matter, that it lacked genuine grounds of communication between the County Authorities and the National Government. The simple letters that were attached were speculative because nobody had authenticated them.

The other thing I want to give a remark on is that in problem solving,

especially in the Parliamentary circles, Statements are always a quick response to the concerns of the Public. That the report has taken over one year should be a concern but still we shall allow that because the plain truth is that we had lacked equip in fact finding and Reports because previously, we never had a credible technical staff, so I would believe that to allow this is not to create a precedent but with a prayer that in future we have quick response.

Response as a tether to Statements raised because we have followed the right procedure of major fact finding and attaching it to a Statement and that one delays even a quick response because Committee have got powers.

Out of their own volition, they can do investigative inquiries into matters that are relevant to their areas of concern, so lumping up investigative journeys with just a quick response by way of a Statement is doing injustice to our people. Unfortunately, this one never required such a quick response because other sectors like Health, where people are dying, require very quick responses. Lastly, Mr. Deputy Speaker, Sir, as I conclude, we were in the same sector and our report will be out very soon as regards the philosophy of implementation that should govern our operations in the Assembly, the inter-relationship of the Committee on Implementation with other sectoral Committees.

The recommendations here are very straight and that's why I support it with only one weakness. We always do financial laws and the Finance Bill is to come since it's a National function and the way it is expressed here never calls for enforcement by us in the County. My Prayer is in contrast to that of Hon. Ndonji of enacting more levies. I can recall this morning the spokesman of a Governor was

in one of the radio stations; saying that when it comes to over taxation, it is us to blame. It's like we increase economic burden as to affect trades in our County and this would not be in the spirit of devolution.

I shall disagree with that and lastly observe that a crime shall remain so not withstanding where it is committed and this one was not observed here; the act of levying Kshs. 200 way above the recommended Kshs. 20 is an economic crime and it is crude from even the correspondence by the other side insinuating that they have suspended those staffers. To me, we ought to have created a precedent, the Committee ought to have come up with very tough recommendations, like to push for the prosecution of those staffers because they were to act in the interest of the County Government only to do their own things and that is a crime and should not to be left at this level.

An inquiry ought to have been done into the activities of these people and a recommendation ought to have arisen thereof because we don't know what they have done elsewhere. Could be these people have enriched themselves away from the normal obligation of the Government to reward its citizens who are Government employees. This is where I'm stuck but in short, to allow an inception is not to create precedent, this Report is implementable...

Hon. Deputy Speaker: Hon. Oriaro, Order!

Hon. Oriaro: He was given a chance...

Hon. Deputy Speaker: Order! Order! Hon. Oriaro, that is not parliamentary!

Hon. Okelo: Point of Order!

(Laughter)

Hon. Deputy Speaker: I want to say that shouldn't happen to you next time so that you don't rise again once you have been given time. He is right to raise a Point of Order.

Hon. Okelo: Mr. Deputy Speaker, Sir, my Point of Order would be more of seeking clarification. The Hon. Oriaro's submission a short while ago has alluded to someone making statements on a radio station, I shall quote Hon. Oriaro that when it comes to taxation, we are responsible and are to blame. I didn't listen to that radio station and I believe some Members equally didn't but it would be of interest to this House if probably someone would get a Public platform and use the same to blame Members of the Assembly or whichever organ he refers to as being responsible for issues of over taxation.

We all know the element of taxation is a very sensitive issue and if it were to go out there, as an Assembly we sit back and condone over taxation for the people of Siaya; I think that would be unfortunate. Since the Hon. Oriaro has the advantage of the Floor, help clarify the matter either to denounce the sentiments of the other person or clarify for the House and at least not to use very difficult words so that all of us would understand. I plead terminologies please, thank you.

Hon. Deputy Speaker: Hon. Oriaro, can you respond to that?

Hon. Oriaro: Yes, Mr. Deputy Speaker, Sir, this morning on Ramogi baraza, a spokesperson for the Governor on communication, Mr. Ombuko; was shielding the Governor and telling the public that if it is over taxation, it is the Assembly and not the Governor to blame and that's why I was using the Floor

genuinely to elevate our standing so that we become proactive because the primary objective of devolution was to give people real life and over taxation in that line obviously to me depletes resources and bars public from even accessing other services, so he didn't understand me.

Hon. Deputy Speaker: Hon. Oriaro, some of us did not get the opportunity to listen to the local radio station you are referring to and again you are aware that it's wrong for you to call or to mention another person's name who will not have any opportunity to come and defend themselves on the Floor of this Assembly. Refrain from mentioning names and from referring to conversations of the radio stations.

Hon. Oriaro: Thank you, I thought you would give me two days so that I produce those links because I have got access to Ramogi.

Hon. Deputy Speaker: You should confine yourself to the Motion and make a conclusion.

Hon. Oriaro: I'm just concluding. It's not just over taxation; double taxation is also a crime such that if the National Government for instance has decided that the cost of 1 litre of petrol is this much, the County Government cannot intervene. When it comes to charcoal, once they have decided that a bag of charcoal is Kshs. 20 and to increase it, that is double taxation, it is also a crime in the public court, even local residents can challenge it and rubbish the Finance Bill if that is the route.

The spirit of recommendation no.1 would follow because it is in the Finance Bill where it can come. Thank you for more airtime, I support because it is an exception that should not be allowed next time.

Hon. Minami: Thank you, Mr Deputy Speaker, Sir, for the opportunity you have given me to contribute to this Debate. In the morning we were discussing an issue that was brought by the same Committee and I think this issue, according to this Committee's report, seems not to be within the mandate of the County Government. If forest services have not been devolved, as a County Government we might talk here and even if these recommendations are so good the way they are being given here, what is the channel of implementation? I think it will be very important that we understand that what we are discussing, let us not just engage for the sake of debating because an issue was brought to this House.

Let us discuss issues that at the end of the Debate, the people of this County are going to get the answers they sought through the Member who brought them. The Statement has two questions and the Committee is saying that those two questions were never answered. The CEC could not answer the questions and even the officers from Forest service could not answer them either. If the questions were never answered, where are these recommendations coming from? Page 6 of this report, conclusion; the Committee therefore noted that Kenya Forest Service, Kisumu was not keen on addressing the two main concerns. The Committee concluded that the CECM did not address the question appropriately.

My question is, where are the recommendations coming from? If the questions that were raised by this Member haven't been addressed, how do we support a report which is not giving answers to questions that were asked? I think with those two issues, the mandate of the County Government and the answers that were not given; I think sometimes it

2016 SIAYA COUNTY ASSEMBLY DEBATES

may be very difficult for us to maybe answer those questions.

If indeed the functions of the Forest Service have been devolved then the law states that in the absence of a County law then the National law will take precedent but in this matter the Forest Services have not been devolved and on this matter if you read the report, you realize that the question being asked is not about the transportation or the charcoal on transit but the charcoal being sold by the vendor at Akala market and not a vendor transporting charcoal from Akala market to the other place.

The issue of levying Kshs. 20 is addressing transportation not that person who is selling charcoal at Akala market. There are some two or three fundamental issues that need to be addressed if we have to make sure that this report will see the light of the day. Thank you.

Hon. Ochieng: Thank you, for having given me this chance. One, I would thank the Committee for having collected all these facts that exist in this Report. Secondly, as much as we are discussing the report today, I want to believe that the problems of Akala traders were solved and they are now in peace. How I wish Hon. Ombee was in the House, to give us these answers.

I think some of the questions have been answered here because as I listened to Hon. Ombee issue this Statement, his concern was that a forest officer from Kisumu County came to Siaya County and charged our traders in Akala market the levies and as I can observe from the report, Mr. Speaker, there is a letter from Kisumu County addressed to siaya County apologizing for what their officer did in Akala market which means they have already recognized that.

The only thing that has not been answered is whether he surrendered the Kshs. 200 he took from the business people in Akala market. I think if we make all this clear, Mr. Speaker, then we shall be at home because one of the requirements of this Statement was that the charges levied on the business people in excess be surrendered.

(Chair hands a document to Hon. Ochieng')

Thank you Chair, the Chairperson has given me the answer. Due to the fact that these levies still go to the National government, what I would urge the County Government is to liaise with the National Government to ensure we get a portion of this money to at least develop our forest as requested from this report, otherwise I support. Thank you.

Hon. Deputy Speaker: Thank you. Before I give more Members time to ventilate, Hon. Booker had raised a vital point in his submission. In fact he alluded that this is probably a National Government function which we are now discussing. We had a similar issue in the morning which I said I would give a ruling the following day in the afternoon. In this particular issue we are discussing, in reference to the constitution 2010, 4th Schedule, Part 2(10) for those who have their Constitution booklets, one of the functions of the County Government is implementation of specific National Government policies on natural resources and environmental conservation including:-

- a.) Soil and water conservation
- b.) forestry

In view of the above factors, Hon. Members, we are within our mandate to

discuss the issues touching on forestry. We would dispense with it only if we try to make policies, but as a County Government, we can implement the policies that have been put in place by the National Government and therefore we are in order to continue with this debate to its logical conclusion.

Hon. Muhula: I want to tell you that when you are discussing about the issue of afforestation, the County Government is in order to talk about the issue of charcoal. I think the contentious issue in what we are discussing today, is the trespass of the Kisumu authority into Siaya County. That is to me what is actually the problem in this document, but when we are talking about the issue of charging charcoal, then I would even have expected the charges to be very high because the charges of charcoal is supposed to be a deterrent to felling the trees which in Siaya County is a menace. Why must we wait only for the policy or guideline to come from the National Government when we know that presently in Siaya, the biggest impediment to rains is the interference with the conservation of forests in this County?

I would have really wondered why we even talk of protecting the charcoal dealers. Mr. Speaker, it is because they are charged money. We cannot equate Kshs. 20 to a tree that is going to cause drought in this County. Charcoal burning to the detriment of afforestation could actually bring a catastrophe to this County.

The issue of food production is becoming a problem because of lack of rain. And everyone knows from simple Geography that rain is supposed to be enhanced by afforestation. One is that the Kenya Forest Service is actually mandated, as I said earlier on, it would be the issue of

trespasses otherwise the KFS under the Article 7(205) Hon. Chair, reach the process of commercial charcoal production notice 86, rule 209 directed by Ministry of wildlife still deters the KFS and authority responsible for issuing license. Authority associations are given responsibility for production of charcoal.

They are not saying that they are giving leeway for the cutting of the trees. They are saying it as a deterrent to protect the forest of this County, which Siaya should be a big contributor to because we are actually the culprit.

Another thing we are talking about is the Principle of Devolution that talks about the issues of democracy and accountability within that separation of powers. Yes, they are not saying that because they are the originators of policies. Siaya County Government cannot sit and come up with anything that will contribute to the creations of more forests in Siaya.

It is high time we expected the people In charge of the Energy of Siaya County to come up with great measures different from cutting our trees lest we sit under drought and maybe sanctify our people for death by hunger if we cannot come up with measures that are very practical and can add value to this County. I pray that let's not be dragged into action with our own electorate to defend something that with time we shall ask if we acted within the confines of the relevant law. But we acted with the interest to protect the people of Siaya County.

While we go around asking for how much our people should be paying for charcoal, we shall be subscribing to the long list of the drought- stricken areas which I don't think any Hon. Member of this House would have wanted to

subscribe to. We must start from today to understand what is actually very practical that we can discuss and we can achieve and what is not practical that we may subscribe to and bring failure to Siaya County. Please, let's rise above that one.

Hon. Chair, I stand to support this report on the context of afforestation and conservation that we need.

Hon. Abayo: Thank you, Hon. Speaker, I rise to make my submission on this report and I wish to declare from the onset that having gone through this report, I am not really sure whether I should support it or not, because as other Members have mentioned, there are some fundamental issues that have been raised as being informed by the Committee and there are also provisions of law that have been made.

The issue of trespass as has been mentioned, and I wish to mention that pages 4-5 there is a quote there in italics and (b) part of which states: - a forest officer may at any time inspect the premises in which wholesale or retail charcoal is being under taken. Therefore, the only thing is that we are talking about the forest officers from Kisumu moving to Siaya but the forest officers have the mandate.

Two, I would want to focus more on the observations, because the observations raised here, would be informing me it is stated right in (i), I have no problem. The second one, the ecosystem forest conservator of Kisumu, I am looking at the substance here, we are being told, did not address the main concern but only reminded his officers to restrict themselves within Kisumu County.

I remember very well and I was very candid on the last report and I think I led the path in rejecting it. In terms of

substance, I think even today the report has a lesser substance according to me. Look at the issue of communication here, we have been given a letter, before I give you the letter let me talk about the fact that the source of information given to us is a letter from the ecosystem forest conservator of Kisumu, that is the only reference given to us in terms of communication besides the law that has been quoted. You wonder then what the issue is. At what level did the Committee engage? We are talking about the CEC. But let's mention against the person.

Number 3, the receipts issued to traders could not be traced either from the Hon. Peter Ombee or from the Research Office, where the statement was made. What substance are we talking about? Can't this just be an allegation because there is no evidence? Where is the proof that these fellows were charged Kshs. 200 as opposed to Kshs. 20? Let me draw the Members to the contents of the letter. Complaints reaching my office, you can see they are being called complaints because there is no proof, there is no evidence! It is possible they received a letter from the conservator, but where is the substance? He is talking about complaints, and you go ahead; "it is alleged," what substance are we talking about? I wish Hon. Ombee did not just wake up to do this statement because there is proof.

For me at times some of us are a bit meticulous and we have to be sure what we are talking about, according to me there is no proof. And therefore I am not sure whether the substance that we are talking about is worthy of the comments we are giving. We want to thank you for clarifying this because there was an overriding statement.

A little contradiction but that has been cleared and Mr. Speaker we want to thank you for clearing this. Because there was the overriding statement and it is good you mentioned that in as much as forest is not devolved. Very interestingly they are saying it is not involving the report although you have corrected that and they have gone ahead in the recommendation to tell the CECM what to do, to put in place a Director and even to put in place a Committee. I think that was going to be a contradiction and I was going to take that lead.

In the devolved System, the Committee goes ahead to talk about implementing the National Policy; does the National Policy have, as a provision, County Forest Management Committee that they are proposing, Mr. Speaker, the County Forest Management Committee that they're proposing or they are referring to what is mentioned there as Forest Conservation Committee? At the top of page 5 it is indicated that conservation plans amongst other rules such as every forest conservation committee shall from its membership establish a licensing sub-committee. Mr. Deputy Speaker, all this is confusion and maybe the learned friends could be privy to this.

I expected that as they talk about the County Forest Management Committee, they would have also quoted the provisions outlining the establishment of this committee. I expected that they would have quoted either the Forest Conservation or Management Act, 2014. In the report, there is also the bit of a refund; although the Committee has dismissed this, where would you give a refund when you can't even produce a receipt that you actually produced money?

Let's get to the recommendation No. 3; forestry officers from one County should not trespass and charge traders from a different County. How are we going to enforce this? That is more of a blanket statement.

Lastly, Mr. Deputy Speaker, the Committee has gone ahead to give themselves other terms of reference to talk about afforestation. I stand to be corrected on this, but I expected that the 0.42% quoted here should be the percentage for Kisumu which was number 46 while Siaya was number 47 with 0.4%. I stand to reject this report, Mr. Deputy Speaker, Sir.

Hon. Augo: Thank you, Mr. Deputy Speaker, Sir. First of all, I would like to commend the Water Committee for giving us this report. It is not only in Kisumu where people are being charged but also in Bondo. They meet charcoal sellers on their way to the market and charge them Kshs. 200. There is no involvement of a committee. They claim they will charge you Kshs. 200 for one month and you are given a receipt and any time you go to the market you have to carry it. The Committee should have told us whether the Kshs. 200 being charged at Akala market is for a day or one month.

(Hon. Were stood up in his place)

Hon. Deputy Speaker: Hon. Were, before you walk out, I fear that we may run out of quorum. Hon. Members, we have a very short time to make a conclusion on this; please just be patient. Hon. Augo, you can proceed.

(Hon. Were resumed his seat)

Hon. Augo: Mr. Deputy Speaker, Sir, on page 5, under the summary of deliberations, it is indicated that no

charcoal trader is allowed to engage in business with unlicensed charcoal producer or transporter. It would be very difficult to license these people. This is why they are being charged Kshs. 200 every month and not when they produce a sack of charcoal.

Hon. Aneme: Point of order, Mr. Deputy Speaker, Sir!

Hon. Deputy Speaker: What is your point of order, Hon. Aneme?

Hon. Aneme: Mr. Deputy Speaker, Sir, the Hon. Member on the Floor is misleading the House. The document we are rejecting today is trying to bring in some elements that were captured in the 2015/2016 Finance Bill which proposed that charcoal traders will only be charged Kshs. 20 for five bags. This means that less than five bags don't attract any charge. My major concern with that was that maybe somebody can try to sell some bags in some secret place...

Hon. Deputy Speaker: Hon. Aneme, are you making a contribution or you are...

Hon. Aneme: Just a minute! I'm explaining to you how we are being misled.

Hon. Deputy Speaker: That's not a point of order, that's a contribution. We shall give you time to contribute.

Hon. Aneme: Then give me time to contribute!

(Laughter)

Hon. Deputy Speaker: No, Hon. Augo was still making her submission. Hon. Augo, proceed.

Hon. Augo: Thank you, Mr. Deputy Speaker, Sir, for protecting me from Hon. Aneme. This report was just an accusation from our people that forestry officers from Kisumu come to Siaya to

collect levies and the explanation in this report is confusing. For that reason, I reject this report. Thank you.

Hon. Madialo: Thank you, Mr. Deputy Speaker. I have heard very many people rejecting the report, so, I don't know whether to also do so or---

(Laughter)

I wish to call the attention of the House to the letter annexed as a response to the query raised. There is a logo at the top of the letter that reads 'Kenya Forest Service.' Mr. Deputy Speaker, Sir, Kenya Forest Service is a parastatal; it is not even strictly answerable to the minister at the national level. So, it disturbs my mind how we even want to implement a report directed to—do we even have a ministry of forestry? The Hon. Abayo is looking at me as if he doesn't know.

Mr. Deputy Speaker, Sir, the relevant constitutional provisions must have had an intention and the intention was to work hand in hand with the national government in giving effect to policies that touch on forests and the environment. Forests and environment is not even a national issue; it is not a municipal issue; it is an international issue with legislations almost copied word for word across the countries in the whole world. Kenya Forest Services is one of the forces in the country that has got cohesive instruments of power.

They are trained to employ force to ensure that trees are not taken to waste; and Mr. Deputy Speaker, Sir, any unit in Kenya that has got that type of authority can cross borders to enforce the law because they are law enforcers.

To begin with, I would concur with the Hon. Augo and Hon. Jared Abayo that

even in addressing it, were we really within our mandate? As Hon. Muhulah pointed out, the question here should have been whether officers from the County Government of Kisumu can cross the boundary and come into Siaya and seek to enforce provisions of the Kisumu County Finance Act.

That would be the question. Therefore, we should have established whether the officers we complain about were officers of the Kenya Forest Service or they were officers employed by the County Government of Kisumu. If they were officers employed by the County Government of Kisumu crossing in to come and collect revenue in Siaya, then, Mr. Deputy Speaker, to begin with, I don't want to question our collective directive, but in the first place, I don't think the Statement should have been with the Committee on Water, Environment and Natural Resources. It should have been with the Governance and Administration Committee. When you say that some officers are crossing into our boundaries, which cannot be a Sectoral Committee issue. And so, Mr. Deputy Speaker, Sir, permit me to join you in future in determining the Committees that Statements should be referred to.

Mr. Deputy Speaker, Sir, look at the schedule. It is signed by Noah Wekesa, Minister for Forestry and Wildlife, as it was called then. It was a First Schedule to the Legal Notice No. 104 of 2012 and it gives description of specifics to which this gazette notice would apply. That is national because this was a national minister. He calls it fees because it is for purposes of raising money to conserve the forests and that is why it is not a tax. In our case, Mr. Deputy Speaker, Sir, we do not collect money or revenue from those

who sell charcoal because they are selling charcoal; we collect this money only if they use our markets and that money is a fee for purposes of maintaining the markets in which they take their goods for sale.

Therefore, if we were to have a complaint, then the complaint should be that they walked into our markets which we maintain and in which we give services, and then they collected revenue from the traders. Otherwise, the Kenya Forest Services Officers can stop anybody anywhere and demand proof that whoever is transporting charcoal is permitted to do so. Whether he is a forest officer from Nakuru or Kisii, he can do that.

So, Mr. Deputy Speaker, Sir, the report is well written in English, but the substance---

(Laughter)

Mr. Deputy Speaker, Sir, the report should not be rejected because it is incompetent; it is competent. It's only that it is misplaced. This is not the correct place where it ought to be. Thank you.

Hon. Deputy Speaker: Thank you. Any further contributions? Hon. Aneme, you have surrendered. You rose on a point of order and you cannot purport to contribute through the back door. You have to come through the main gate. Instead of making your point of order, you started contributing.

Hon. Members, the report that we have been discussing, I had said earlier that Hon. Booker had raised a weighty issue on whether it is right for us to discuss the same or not. Allow me to join this report and the one we discussed in the morning so that I give one ruling

2016 SIAYA COUNTY ASSEMBLY DEBATES

tomorrow in the afternoon. Any objections?

(Laughter)

The House rose at 3.53 p.m.

Next Order!

MOTION

ADJOURNMENT

Hon. Ochieng: On behalf of our Deputy Majority Leader—

(Laughter)

After exhausting all that we were to discuss today, I move —

Hon. Deputy Speaker: On behalf of the Deputy Majority Leader or on behalf of the Office of the Majority Leader?

Hon. Ochieng: I was given the mandate by the Deputy Majority Leader.

(Laughter)

Hon. Deputy Speaker: To act on behalf of their Office.

Hon. Ochieng: I am now doing it, Sir.

(Laughter)

Hon. Deputy Speaker: Ok. Proceed!

Hon. Ochieng: Let us now adjourn it. Thank you.

(Laughter)

I call upon Hon. Aneme to second.

Hon. Aneme: Seconded.

Hon. Deputy Speaker: Hon. Members, having exhausted the activities in the Order Paper today, this House now adjourns until tomorrow, Thursday, 16th June, 2016 at 2:30 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

THURSDAY, 16TH JUNE, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER

**QUORUM CALL AT THE
COMMENCEMENT OF SITTING**

Hon. Deputy Speaker (Hon. Adera): Do we have quorum?

*(The -Clerk at –the -Table
confirmed the lack of quorum)*

Hon. Deputy Speaker (Hon. Adera): You can ring the quorum bell for ten minutes.

*(The Quorum Bell was rung for ten
minutes)*

Hon. Deputy Speaker (Hon. Adera): Clerk, do we have quorum now?

*(The -Clerk at –the -Table
confirmed the lack of quorum)*

ADJOURNMENT

Hon. Deputy Speaker (Hon. Adera): Hon. Members, I wish to draw your attention to Standing Order no.31 part 1 and 2.

31. (1) *A quorum of the House or of a Committee of the Whole House shall not be less than a third of its Members.*

(2) *If there is not a quorum present when the Chair is taken at the time appointed for a Meeting of the Assembly immediately after the saying of the Prayer, the Speaker shall*

Order the bell to be rung for five minutes, and if no quorum is present at the expiration of the five minutes, the Speaker may direct that the bell be rung for a further five minutes and if there is still no quorum present, the Speaker shall adjourn the House forthwith to the next sitting.

Hon. Deputy Speaker (Hon. Adera): As you are aware that immediately after prayers when we discovered that there is no quorum, I Ordered the bell to be rung for ten minutes and the ten minutes period has already expired and therefore if we still have no quorum as per now, then we adjourn to the next Sitting which is on Tuesday, 21st June, 2016 at 2.30pm.

The House rose at 2.44 p.m.

TUESDAY, 21ST JUNE, 2016

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

THE SPEAKER'S RULING ON THE
PETITION TO THE COUNTY
ASSEMBLY OF SIAYA ON THE
SWEARING IN OF MR. OLASI
SAMUEL ONYANGO.

Hon. Speaker: Hon. Members, before we proceed with the agenda of the day, allow me to make a communication. This is the Speaker's ruling on the Petition to the County Assembly of Siaya on the swearing in of Mr. Olasi Samwel Onyango.

Hon. Members, on Monday, 14th June, 2016, the Independent Electoral and Boundaries Commission, in exercising powers conferred by Article 88(4), 193 and 194 of the Constitution of Kenya; Section 4 of The IEBC Act, 2011, Sections 19, 20, 22, 25, 26, 38, and 39 of the Elections Act, 2011 and Regulations 83 and 87(1)(b) of the Elections (General) Regulations, 2012, the IEBC declared Mr. Olasi Samwel Onyango as County Assembly Ward Representative for West Uyoma Ward in Siaya County having garnered 3,685 of votes cast, through Gazette Notice No. 4419 after which preparations to swear him in today Tuesday, 21st June, 2016 started in earnest.

On 20th June, 2016, a group of persons calling themselves the West Uyoma Voters

Petitioned the Speaker against swearing in Mr. Okoth Olasi. Their Petition read in part and I quote;-

‘....We, the listed voters of West Uyoma Ward wish to Petition you, Mr. Speaker, against swearing in Mr. Okoth Olasi. Our main reason is that you will be swearing in a person other than the one we voted for. In 2007, Mr. Okoth Olasi presented himself to be elected and we knew him as such. In 2013, due to academic requirements, Mr. Okoth Olasi opted out since he did not meet the academic threshold.

In the 2016 by election, he presented himself to us as Okoth Olasi, both in the posters and in his public campaigns. We are currently surprised that at the time of voting, we elected one Onyango Olasi, who to the best of our knowledge is a deceased brother of Okoth Olasi. This constitutes a person who is fraudulent and unethical, this being a criminal issue and therefore not fit to serve in the capacity of MCA.

For this reason, we are urging you not to swear in this same person and that we; the Public members of West Uyoma Ward need to be appropriately informed of the same’.

Hon. Members, I wish to address myself to the Petition as follows;-

That the Office of the Speaker lacks the jurisdiction to entertain post-election petitions relating to allegations of electoral malpractices. The Independent Electoral and Boundaries Commission,

2016 SIAYA COUNTY ASSEMBLY DEBATES

having declared a winner in an election and duly Gazetted the same as by law provided, it is my legal duty to administer the oath of allegiance or affirmation in fulfillment of the provisions Article 74 of the Constitution of Kenya, 2010 and Section 9(3) of the County Government Act, 2012 without undue delay.

On my part, I can confirm that the Identification Document (ID) presented to us reads Mr. Samwel Onyango Olasi same as it appears in the Gazette Notice 4419 of 14th June, 2016 starting with the surname Olasi under County code No. 41, Constituency code No. 237, County Assembly Ward code No. 1185, Party code No. 21; codes which represent Siaya, Rarieda, West Uyoma and ODM party respectively and that nobody has since presented himself or herself with related names to cause us to doubt as to the correct identification of the person Samwel Onyango Olasi for swearing in to date.

I therefore advise the Petitioners to seek legal intervention in a court of law or use other legally mandated institutions like the Ethics and Anti-Corruption Commission to channel the aforementioned allegations.

I further rule that the said Olasi Samwel Onyango be sworn in immediately without further delay unless otherwise ordered by a court of law.

(Applause)

If there are Members outside, they are allowed to come in before we proceed.

(Several Hon. Members walked into the House)

I will exempt Members from standing. The traditional practice has been that when a Member is being sworn in,

then as a show of respect and honour, Members remain upstanding, but when you look at a population of about 300 Members in the National Assembly, they could not be standing for over three-six hours when Members are being sworn in. Therefore, Hon. Members, be seated as we proceed.

(Applause)

ADMINISTRATION OF OATH

(The MCA-Elect for West Uyoma Ward entered the Chamber escorted by Hon. Munda and Hon. Osore)

Hon. Munda: Mr. Speaker, Sir, it is my pleasure to introduce the MCA-Elect for West Uyoma Ward, Olasi Samwel Onyango, for swearing-in.

(Applause)

The Oath of Allegiance was administered to the following Member:-
Mr. Olasi Samwel Onyango.

(Applause)

(Hon. Olasi approached the Bar, bowed at the Chair and took his seat)

(Applause)

Hon. Speaker: Having done that, Hon. Members, in our traditional way, I want to urge you to acknowledge the presence of West Uyoma people who are in our Public Gallery.

(Applause)

Thank you so much. Those are people from Rarieda Constituency, Siaya County.

Next Order!

STATEMENT

Hon. Speaker: Hon. Ndonji was to do it, but I can see Hon. K'owii is here.

Hon. Ndonji: Yes!

Hon. Speaker: Proceed, Hon. K'owii!

(The Hon. Speaker and the Clerk consulted)

Hon. Speaker: Ok. Proceed with the Statement before we go to the Motion.

Hon. Owii: I shall bring my Statement in the next sitting, not today.

Hon. Speaker: No, the Statement of activities for next week. Seems like you don't have it. Proceed with the Motion.

ADJOURNMENT

Hon. Owii: Mr. Speaker, Sir, I want to move the following Motion:-

THAT, pursuant to the provisions of Standing Order 25(3), this House adjourns until Tuesday, 28th June, 2016 at 2:30 p.m. in this Chamber to allow Members to attend the proposed Siaya County Government Budget Estimates for the Financial Year 2016/2017 public participation meetings in the Wards.

I call upon Hon. Augo to second.

Hon. Augo: Seconded.

(Question proposed)

(Question put and agreed to)

The House rose at 2.49 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 28TH JUNE, 2016

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

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

PRAYER

COMMUNICATION FROM CHAIR

VISITING SCHOOL, NYAWARA
GIRLS

Hon. Speaker: Hon. Members, allow me to make the following communication: In the public gallery we have students from Nyawara Girls High School, Form 4 students. Those are candidates for that matter and the leader of the delegation is Mr. John Omondi.

(Applause)

Then also in the Speaker's gallery, we have Mr. Allan Kwenda who is from Jaramogi Oginga Odinga University of Science and Technology. We welcome you.

(Applause)

Thank you. Having said that, I wish to bring to your attention that we are in communication with the Budget and Appropriations Committee and we shall convey their message to you in the course of the day as to when they will have an informal discussion on the Budget Estimates and also when they will be tabling it for Debate or consideration together with the Appropriation Law. Thank you.

I am also aware that the Deputy Speaker had a communication to make but it is still being worked on and at the least

convenient time that will be made to you. Next Order!

PAPER

REPORT ON A STUDY VISIT TO
KAJIADO, MACHAKOS AND MAKUENI
COUNTIES ON SUSTAINABLE IRRIGATION
SYSTEMS FOR ENHANCED PRODUCTIVITY,
ADOPTED MARKETING SYSTEMS AND
WATER HARVESTING SYSTEMS FOR
IMPROVED AGRICULTURAL PRODUCTION.

Hon. Ochieng: Mr. Speaker, Sir, I wish to lay on the table a report on a Study Visit to Kajiado, Machakos and Makueni Counties on sustainable irrigation systems for enhanced productivity, adopted marketing systems and water harvesting systems for improved agricultural production.

*(Hon. Ochieng laid the document
on the Table)*

STATEMENT

Hon. Speaker: Yes, Hon. Oriaro.

Hon. Oriaro: Thank you, Hon. Speaker, Sir. Pursuant to Standing Order 40(2), I rise to seek a statement from the Chairperson of Agriculture, Livestock and Fisheries on the project for the construction of Rarieda Livestock Aram office building in Rarieda Sub County which was estimated at a cost of Kshs. 4,106,347. Partial payment of Kshs. 2,732,800 was made at a transitional level. The same construction was completed in April, 2014 and the building is currently used by the County Government.

In the Statement, the Hon. House wishes to beseech the Chairperson to explain why there has been a delay in payment of Kshs. 1,560,287, being the

2016 SIAYA COUNTY ASSEMBLY DEBATES

outstanding balance to the manager of Kings Logistics Limited who was contracted to do the work.

Two, reasons for the Failure to pay the money to the contractor. Three, challenges, if any experienced in the processing of the payment and lastly when the same can be paid. Thank you, Mr. Speaker, Sir.

Hon. Speaker: The Chair of Agriculture, note that we do not have a situation where statements are sought and they take forever to be tabled. Let's hear from you when you are tentatively likely to give us this report.

Hon. Ochieng: I would wish to be given 2 weeks to bring a tentative report.

Hon. Oriaro: Mr. Speaker, Sir, it is only that maybe events have overtaken me but I would wish that I receive the report in a weeks' time because the said contractor has already had the wrath of auctioneers; he is hospitalized and his wife even decided to run away so it is a pathetic situation and interestingly his services are not being engaged by the County Government. To me 1 week would suffice.

Hon. Speaker: We are not sure whether the wife ran away because of this...

(Laughter)

Hon. Oriaro: I have got supporting documents, facts relating to this.

(Laughter)

Hon. Speaker: You have supporting documents to show the wife ran away?

Hon. Oriaro: Anyway, Mr. Speaker, Sir, I am not speculating. Initially I received this notice by way of email which is valid. I received everything

pertaining to the social situation of the man in question.

Hon. Speaker: Hon. Oriaro, you cannot convince us of the authenticity of the information you received on your email because you can even post lies there.

Hon....: I rise on the point of information. Our Standing Order stipulates that a report should be submitted within 21 days and for the Hon. Member to push to bring in the report within 1 week, I find that a bit unreasonable because if at all we have to have a water tight report, then there are people whose Committees shall be inviting to give them information.

Hon. Speaker: The Committee chair or the Vice Chair for that matter, we would like you to give us a progress report before we go on recess next week, Thursday latest.

MOTION

REPORT ON A STUDY VISIT TO
KAJIADO, MACHAKOS AND MAKUENI
COUNTIES ON SUSTAINABLE IRRIGATION
SYSTEMS FOR ENHANCED PRODUCTIVITY,
ADOPTED MARKETING SYSTEMS AND
WATER HARVESTING SYSTEMS FOR
IMPROVED AGRICULTURAL PRODUCTION

Hon Ochieng: I wish to move a Motion that this house adopts the report on Committee of Agriculture, Livestock and Fisheries on a Study Visit to Kajiado, Machakos and Makueni Counties on sustainable irrigation systems for enhanced productivity, adopted marketing systems and water harvesting systems for improved agricultural production laid, on the table today Tuesday, 28th June, 2016.

2016 SIAYA COUNTY ASSEMBLY DEBATES

1.0 PREFACE

Mr. Speaker, Sir, the Committee on Agriculture, Livestock and Fisheries has the honor and privilege to present the report on a Study Visit to Kajiado, Machakos and Makueni Counties on sustainable irrigation systems for enhanced productivity, adopted marketing systems and water harvesting systems for improved agricultural production.

Mr. Speaker, Sir, the study visit was necessitated by the key findings that were made by the Committee during its oversight role around the 9 sites that were commissioned for up-scaling of micro-irrigation projects. The committee noted that the main challenge the farmers are going to face with the diesel powered drip irrigation system is supply of fuel to run the generators and hence a question of sustainability.

During its meeting held on 29th October, 2015, the Committee thus resolved to undertake a visit to the 3 Counties that practise Solar Power Irrigation and horticultural farming. The Committee requested the Executive Department of Agriculture, Livestock and Fisheries to facilitate meetings with the various institutions in the 3 Counties to enable it achieve the objectives.

COMMITTEE MANDATE

The Committee on Agriculture, Livestock and Fisheries is one of the Sectoral Committees established under Standing Order No. 191.

It's mandated to investigate, inquire into, and report all matters relating to the sector as they may deem necessary and as they may be referred to them by the Assembly and make reports and recommendations on their findings back to the Assembly

COMMITTEE MEMBERSHIP

Mr. Speaker, Sir, the Committee on Agriculture, Livestock and Fisheries was

constituted by the Honorable House on Tuesday, 30th April, 2013 comprising the following 10 Members:-

N O	NAME	DESIGNATI ON	SIG N
1.	HON. JOSEPH AGOKO – MCA	CHAIRPERSON	
2.	HON. WILLIS OCHIENG –MCA	VICE CHAIRPERSON	
3.	HON PETER OMBEE – MCA	MEMBER	
4.	HON. ERIC NDONJI- MCA	MEMBER	
5.	HON. ROSE OKITE – MCA	MEMBER	
6.	HON. KESIA SIWA – MCA	MEMBER	
7.	HON. ZILPA OMONDI – MCA	MEMBER	
8.	HON. PIUS OMBIYO – MCA	MEMBER	
9.	HON. JOSHUA OSURI – MCA	MEMBER	
10.	HON. ROSEMAR Y OGUTU- MCA	MEMBER	

Delegation's Composition

2016 SIAYA COUNTY ASSEMBLY DEBATES

Mr. Speaker, Sir, the delegation of the visit to Kajiado, Machakos and Makueni Counties comprised the following members:

1. Hon. Joseph Agoko, MCA - Chairperson & Leader of Delegation
- 2 Hon. Willis Ochieng, MCA - Vice-Chairperson
3. Hon. Joshua Osuri, MCA - Member
4. Hon. Zilpa Omondi, MCA - Member
5. Hon. Rose Okite, MCA - Member
6. Hon. Eric Ndonji, MCA - Member

Acknowledgement

Mr. Speaker, Sir, the Committee is grateful to the Offices of the Speaker and the Clerk of the County Assembly of Siaya for the support extended to it in facilitating the study visit to Kajiado, Makueni and Machakos Counties which made the visits successful.

I wish to extend special gratitude to the Members of the Committee, for their commitment and considerate contributions during the deliberations.

Mr. Speaker, Sir, it is now my pleasant duty, pursuant to Siaya County Standing Order 191, to present the report of the Sectoral Committee on Agriculture, Livestock and Fisheries on the study visit to Kajiado, Machakos, and Makueni Counties.

Date:

.....
.....

Signed:

.....
.....

HON. JOSEPH AGOKO, MCA

CHAIRPERSON, SECTORAL
COMMITTEE ON AGRICULTURE,
LIVESTOCK AND FISHERIES

2.0 INTRODUCTION

Agricultural-led development is fundamental to reducing hunger and poverty, generating economic growth, reducing the burden of food imports and opening the way to expanding exports. Hence, when the then-OAU Heads of State and Governments endorsed the New Partnership for Africa's Development (NEPAD) in 2001, they made clear the critical role Agriculture will play in pursuing real and sustainable growth.

This specific agenda, the Comprehensive African Agriculture Development Programme (CAADP), was consolidated as the Maputo Declaration 2003. In Africa, agriculture is almost entirely rain-fed and only about 6% of agricultural land irrigated. Most of that is in just a few countries such as Egypt and South Africa. The 2005 Commission for Africa report called for a doubling of the area of that irrigated arable land by 2015.

In Kenya, Agriculture is the main stay of the economy and currently contributes 26 percent of the GDP directly and another 25 percent indirectly. The sector also accounts for 65 percent of Kenya's total export and provides for more than 18 percent of formal employment. More than 70 percent of the informal employment is in the rural areas (ASDS, 2010).

In Siaya county absolute poverty is over 47 per cent while 37 percent of the county's population is food insecure with about 58 per cent rural inhabitants, living below absolute poverty. (SCASDS, 2014).

The sector's contribution to household income is estimated to be over 60 percent (MoA, 2013). The County heavily relies on rain-fed crop production which is sporadic in nature, consequently leading to seasonal food shortages and dependence on imported supplies from other counties and the neighboring country of Uganda. Despite the moderate land sizes with potential for higher crop yields, low household incomes are still a major problem in this sub county, approximated at an average of 35.5% poverty level (KIHBS, 2009).

In Siaya County, adoption of modern Agriculture methods has been constrained due to limited information regarding on-farm management decisions and economic profitability. The economic viability of alternative and more sustainable agriculture farming systems depend on the value of farm profits. The major challenges that have been noted affecting Siaya County include; increased cases of exploitation of agribusiness farmers by value chain actors, under developed marketing channels, over reliance on rain- fed agriculture, high costs of production and inadequate relevant knowledge on production and marketing. Having a number of opportunities that could be exploited to overcome the challenges, it was vital to share experiences with other farmers from the carefully selected counties who are practising in the areas of concern.

Terms of Reference/ Guidelines

Mr. Speaker, Sir, in view of the aforementioned, the Committee set out to;

- i. study the sustainable irrigation systems adopted and practised by the

small- scale farmers in the three counties,

- ii. internalize the marketing systems adopted and practised by the smallholder farmers for profit maximization and
- iii. understand the operations of the sustainable community water harvesting systems for improved agricultural production.

PROCEDURE ADOPTED

Mr. Speaker, Sir, in order to achieve the above objectives, the Committee held a meeting with USAID-CAVES (a Non-Governmental Institution) on solar power irrigation systems. Members learnt about portable solar irrigation kits that cost about Kshs. 40,000 and can irrigate at least 2acres of land with good agricultural production output. The committee also carried out field visits from 21st to 24th December, 2015 to 3 selected Counties, which forms part of the next chapter.

3.0 FIELD VISITS AND ENGAGEMENTS WITH VARIOUS STAKEHOLDERS AND INSTITUTIONS IN THE 3 COUNTIES

Mr. Speaker, Sir, during the study visit to Kajiado, Makueni and Machakos, the Committee visited and held meetings with:

- The farmers of Matepesi irrigation scheme in Loitoktok □ Makueni Food Processor Cooperative group □ KALRO Station and Ivaini Farm in Machakos.

3.1 FIELD VISIT AND MEETING WITH MATEPESI IRRIGATION SCHEME

Mr. Speaker, Sir, the Agriculture Committee met with farmers from Matepesi irrigation scheme in Kajiado County. The objective of the meeting was to familiarize with the sustainable solar irrigation systems for smallholder farmers.

- i. The group was formed in 2013 by 40 members (25 Females and 15 Males).
- ii. The land belongs to the Community and covers an area of 40acres
- iii. Funding was done by Kenyan Red Cross to improve on food security for the community.
- iv. The project cost was said to be Kshs. 60 million and the money was used in fencing off the piece of land, procurement of the solar panels and its accessories, digging of a borehole and purchase of water tank.
- v. Each member is offered 0.5 acres to work on. The distribution of water is regulated by the group officials to ensure that all the farms are irrigated adequately using the gate valves.
- vi. The major crops grown include; maize, Yellow beans (KATDI type, exported to Tanzania for processing into oil, soap and biscuits), Tomatoes, kales and soya beans
- vii. The farmers majorly use CAN for top dressing and Amiran Smart Fertilizer for planting
- viii. The challenges noted were; wildlife menace, High cost of farm inputs,

only 20 acres are currently under drip.

Remarks from the Committee

The Members urged the farmers to purchase more gate valves to improve on water pressure control and distribution. This will help to irrigate all the farms including the ones located downhill.

To help in wildlife menace, Members advised the group to erect an electric fence. Members also advised the group to register as a Cooperative to help in credit facilities and strengthen their market linkage.

3.2 MEETING AT KALRO

Mr. Speaker, Sir, KALRO is a corporate body created under the Kenya Agricultural and Livestock Research Act of 2013 to establish suitable, legal and institutional framework for coordination of Agricultural research in Kenya with the following goals:

- Promote, streamline, co-ordinate and regulate research in crops, livestock, genetic resources and biotechnology in Kenya.
- Expedite equitable access to research information, resources and technology and promote the application of research findings and technology in the field of Agriculture.

The Agriculture Committee was received and taken around by the Natural Resource and Agriculture officer, Mr. Peter Kathui, whose area of specialization is soil and water conservation.

Highlights from the presentation by the Agriculture Officer in KALRO

- 1) KALRO was established to undertake research in New Technologies/ New

2016 SIAYA COUNTY ASSEMBLY DEBATES

Varieties in Agriculture to lower the cost of production/ improve on the productivity.

2) The center trains farmers on Grafting techniques, establishment of seedlings, agronomic practices and multiplying of seedlings through tissue culture

3) The area was said to be most suitable for crops like Mangoes, citrus, papaws, passion fruits and avocados, since it falls between 700-800m above sea level.

4) The procedure for planting mangoes is digging a hole of 2x2x2m, then 1 debe of manure is mixed with 1 glass of DAP. Grafted mangoes start fruiting at 3 years with proper management such as pruning, manuring and disease and pest control.

5) Members learnt that there are new varieties of citrus fruits namely; Valencia, tangerine and Washington navel.

3.3 MEETING WITH MAKUENI COUNTY FOOD PROCESSOR COOPERATIVE

Mr. Speaker, Sir, the Members visited Makueni food processor cooperative with an aim of establishing the marketing systems adopted and practised by the small holder farmers.

- i. The Cooperative Society was started by 36 members with an objective of stabilizing mango prices. The Members felt that the farmers were being exploited by the middle men.
- ii. The Cooperative exports mangoes to Dubai and also sells within the local markets. There are standards which must be adhered to depending on the targeted market at harvesting.

- iii. Training has been conducted for harvesting teams to ensure that quality is maintained for both the export and local products depending on the set out specification.
- iv. Gross sales is between Kshs. 30,000 -100,000 per tree per season depending on the management level of the farmer.
- v. Export mango is purchased at Kshs. 13.00 while local mango is purchased at Kshs. 9.00 at farm gate.
- vi. The Cooperative has established an input supply/ cooling stores to ease the cost of farm inputs and also to improve on accessibility.
- vii. The farmers noted the following challenges; high import standards, disease and pest control e.g. fruit flies, inadequate transport facilities...

3.4 FIELD VISITS AND MEETING AT IVAINI FARM

Mr. Speaker, Sir, the delegation visited Ivaini farm in Machakos. The farm belongs to one Mr. Wilson Kyalo, a farmer who has won several awards as the best farmer in Kenya. The aim of visiting the farm was to learn on best Agricultural practices and community water harvesting systems for improved Agricultural production.

The farm was started as a dairy farm in January 1974 with one animal, brown freshian cross breed that was bred to pure over a period of years. The first pedigree animal on the farm produced 15 liters of milk per day. The highest production ever achieved on the farm after several herd improvements is 65 liters per cow per day. Currently, the highest

producer on the farm stands at 60 liters per cow per day. This is the highest producer in East Africa as per the current records.

The farmer remarked that he is still running behind the Vision 2030 which is pegged at 100 liters per cow per day. The total herd stands at 50, which is heavily controlled due to the availability of feeds.

The farmer mentioned that the secret behind his success in dairy farming is availability of feeds within his farm. He always prepares large quantities of silage for feeds during drought. Crops such as maize, beans and pigeon peas have also been planted within the farm.

One key achievement is the construction of three large water pans and borehole with a discharge capacity of 625 cubic liters per hour. This will aid in harvesting of water during rainy seasons to be used during the dry seasons.

3.0 KEY OBSERVATIONS

Mr. Speaker, Sir, the Committee made the following observations during its visit to the 3 Counties;

1. The issue of renewable energy is of great importance to the communities of Siaya owing to the fact that it can be adopted even in dry areas where there is no permanent natural source of water for irrigation
2. For successful agricultural output, research on crop viability depending on climatic conditions of an area and soil testing is key. There are different crops that do well in dry areas thus farmers need to know the climatic conditions surrounding them and the type of soil before deciding on which horticultural crop to grow.
3. Small holder farmers need to form cooperatives to achieve economies of scale and help in marketing of their farm produce. Cooperatives have proved to be effective in terms of protecting the farmers against exploitation by middle men.
4. Water pans are very vital for areas that receive rainfalls of between 700-900mm. In Siaya, the average rainfall is 800mm and therefore investing in water pans can be of importance during the dry seasons.

4.0 RECOMMENDATIONS

Mr. Speaker, Sir, the Committee makes the following recommendations based on observations made during its visit to the 3 Counties:

1. The CECM Agriculture to re-look at their irrigation policy and come up with a sustainable solar power irrigation policy that can easily be adopted in all parts of Siaya County to promote agricultural activities. In the long run, the use of green energy has proved to be more sustainable and environmentally friendly.
2. Irrigation cannot be successful in isolation but its policy must be considered alongside other elements including crop research, improved markets and ecosystem management. The County Government should thus develop a water use policy within a broader framework that promotes

2016 SIAYA COUNTY ASSEMBLY DEBATES

agricultural growth through profitable investment.

3. The County Government should set aside funds for crop research and development, and establish soil testing units within the County. These can be done by promoting the activities within ATC and employing more research staff to the institution.
4. The importance of Cooperative Societies cannot be over emphasized. The CEC Trade needs to move with speed and develop a cooperative policy that will guide the operations of the cooperative societies within the County.

Hon. Were: Let me thank you very much, Mr. Speaker, Sir, for this opportunity. I wanted to commend the Committee on Agriculture for the good narrative. The report is full of literature; actually it is an act of poaching. The report is deficient, shallow and not well oriented. It has not borrowed from our experiences as a County. We have a budget allocation for the year 2013/2014, 2014/2015, 2015/2016 and we now have 2016/2017. I look at the report and the reality on the ground, Siaya as a County with a population of almost 1 million residents; only 14% has access to clean and safe drinking water!

You would ask yourself, if you don't have water for domestic consumption, what do you irrigate? They are talking of irrigation, how do you do irrigation if only 14% of our County men and women have access to water.

I have looked at the report, it is talking of market, market for what? When we don't have the surplus, you are not

harvesting anything yet you are looking for the market.

(Applause)

(Laughter)

It's a bit strange that the report is not loud about our experiences, it is not evidence based. How many boreholes do we have as a County? How many water plants do we have? Is it lack of orientation? SIBO as a water provider is only able to efficiently provide 57% of water while 43% is wasted. SIBO as a water provider is not able to account for the losses up to the tune of Kshs. 38 million. Where are the other water providers?

What we should talk about is how we can make a 100% of our County men and women have access to water. Then we would talk of irrigation. When you look at the report, this is tourism! We need to be a little bit more serious because the questions of providing water and health are twin brothers.

(Hon. Owii rose on his feet)

Hon. Speaker: Yes, Hon. Owii!

Hon. Owii: Thank you, Mr.

Speaker, Sir. I have just decided to stand on a point of order and more particularly on a point of information. We cannot afford that the time that is really limited in this House be wasted by one Hon. Member, trying by all means and all his energy to mislead this House

(Applause)

We are not talking about water; we are talking about irrigation policy. So I want to say that, that energy with the brain that

2016 SIAYA COUNTY ASSEMBLY DEBATES

he has, I know him; it is very deliberate, he can sit and give other people this opportunity to give direction to this particular County.

(Applause)

Hon. Nguere: Point of information!

Hon. Speaker: Yes, Hon. Nguere!

Hon. Nguere: I also want to inform the Member who has been on the Floor that the essence of the Benchmarking in my view is to find out how those people are carrying out their activities

(Applause)

and if we can compare that to how we do ours here and whether this can help to do our things better. I observe from the report that the Committee has the time to inform the groups over there how certain things can be done in terms of fencing, I mean, this is the essence of Benchmarking, it helps us do our activities better.

(Applause)

Hon. Speaker: Hon. Members, going by the terms of reference of your visit or Benchmarking, it says that one of the things was to understand the operations of the sustainable community water harvesting systems for improved agricultural production. To internalize the marketing systems adopted and practised by the small holder farmers for profit maximization and to study the sustainable irrigation systems adopted and practised by the small scale farmers in the three Counties. Kindly restrict your debate to those terms of reference and to the members of the group or the Committee. I

advise that you also use the maximum energy you have to defend the very report.

(Applause)

Hon. Were: Thank you very much, Mr. Speaker, Sir. I looked at the recommendations and have attempted to reconcile with the terms of reference but there exists a disconnect. When you talk of irrigation, it does not really start on nothing; you need to do harvesting and we need to do a bit of capacity building for those who go on Benchmarking.

Hon. Speaker: Hon. Were, kindly make sure your statements do not demean this House, to suggest to the people in the plenary that the Benchmarking visits we have done before have not been done for capacity building. Will you proceed!

Hon. Were: Otherwise, this is a wakeup call to the Sectoral Committee on Agriculture. It is a pleasure this evening that this Assembly of Hon. men and women have been given an opportunity to look at this report, to look at our own experiences as a County and then we shall be able to look at the evidence. Otherwise, thank you, Mr. Speaker, Sir.

Hon. Speaker: Did you say you support the report?

Hon. Were: I am not supporting the report because they are not able to deliver. Thank you.

Hon. Oriaro: Thank you, Mr. Speaker, Sir. For the first time, I want to observe that the moving of this report almost made me jump out of my skin. I could only express that by giggling all through. Back to business, Hon. Houses as ours have their representation and indeed I am talking about genuine representation such that when we are out for any pursuits, the primary question is; is

2016 SIAYA COUNTY ASSEMBLY DEBATES

it a tither to representation whether of County outlook or allocation outlook. The Benchmarking was done in three Counties; we talk of Makueni, Kajiado and Machakos; where are we coming from? Whether on agro economical scale, agro ecological scale or topographical scale; Siaya going to Benchmark with horizon zones, is there any colonialism?

I would have believed that before going for Benchmarking, we ought to have come up with historical materialism. We are in a County Government, this is what Siaya used to be and this is what Siaya is and historical materialism is all about knowing the past, understanding it in the present and then we think about the future. So where Siaya was, where Siaya is, where do you want to go to into the future so we go for Benchmarking based on that which we already have.

This report is misplaced on valued grounds, very much on valued grounds. Even when it comes to the issue of annual rainfall, Siaya is densely populated, so the nature of agriculture we want to do, whether animal or plant husbandry must be diametrically opposed to the ones they have the other side! So, what are we really talking on Benchmarking? We are now being taught on how to plant mangoes, 2x2x2 feet, so we go to do Benchmarking!

I want to report here very objectively, in 2005, my farm at Kamlap Kadenge, where I have planted market variety grafted mangoes was number one in the ASK Show Kenya, so I am being taught how to do mangoes! Understand what you have before you go to do Benchmarking. We are even taught here that export variety goes for Kshs. 13.00, local market is liable without you people knowing that the mango, the lowest I sell right at Oriaro's stall, one mango goes for

Kshs. 40.00, that is why I am talking from a point of information. That is why in the 2016/2017 budget...

Hon. Speaker: Yes, Hon. Ndonji, you are on a point of order.

Hon. Ndonji: Mr. Speaker, Sir, you had directed that we stick to the matter at hand and I think those who criticize this report are not coming up with the issues that are supposed to be criticized. When people go out for Benchmarking, this report is only indicating what was found out there and wanted to compare with what we have here and what we can do to improve whatever we have here.

Hon. Speaker: Yes, Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Speaker. I am intelligent and always do research on any matter that should be on the Floor as a representative.

Hon. Speaker: The Central Alego people know that you are intelligent and that is why they sent you here.

Hon. Oriaro: Thank you, Mr. Speaker. In 2015/2016/2017, Alego Usonga will create a point of reference in the budget which will be brought in this House. It shall be seen that 11,000 households, each shall be provided with market variety mangoes. So I am talking about what we know, we have done research; our people have even gone through that which cannot be compared to this. You talk of Katumani; in those places they do Katumani maize variety but that cannot be done here.

So, in a nut shell, the literature can even be found on Google and therefore what is important here is the Maputo declaration which is readily available and needs no teaching for one to understand, while there is already a fruit processing plant that is just 100 meters away. A product of Western Community driven and

even in Bondo there is a plant of similar nature where fruits can be processed to produce juice and these are some of the things I thought they would learn as they bench mark, yet it's not in the report. In a nut shell, my brothers were out on a picnic.

Hon. Speaker: Hon. Oriaro, today you are out of order, take your seat and it is out of order for two Members to be on their feet at the same time.

Hon. Owii: I think I should lower my voice so that they hear me well; we can't just have the courage to mislead a Hon. House this way, especially when we have visitors. Some of us are coming from Bondo and none of us can even have the courage to mention that there is a fruit processing plant in Bondo; can you name it? That is a fish processing plant.

Hon. Oriaro: I can mention where it is, its behind...

Hon. Speaker: Order! Order! Order! Hon. Oriaro, you know it's being out of order if you say what is not right in this House and there are consequences of doing that, whether you are refuting what is right or you are alleging what is incorrect, it is equally out of order. Hon. Elisha Okuku, what is your point of order?

Hon. Okuku: I wanted to know if the Hon. Member, Deputy majority leader stood on a point of order or he was contributing because I think if you interrupt a member on the Floor, you interrupt the point of order and it seems he was contributing.

Hon. Speaker: The Hon. Member for Central Alego I think had just finished his contribution.

Hon. Oriaro: No, Mr. Speaker, he interrupted me; just allow me only one more minute.

Hon. Speaker: Ok, I allow you one minute more.

Hon. Oriaro: The chair of Agriculture is one of the pioneer founders of a juice processing plant located next to a police station. The Dero community organization alongside other over 10 NGOs also came up with the same product funded by Western Kenya Community driven and flood mitigation project. I conclude by saying that on this Floor, I brought a statement and even community petitioning of human wild life conflicts; did they go to do bench marking to come and tell them that they only need to fence their lands? Yet this is human wildlife conflict in which the people of Alego Central are still to get answers. This was purely an act in futility while having a nice time on picnic.

Hon. Speaker: Hon. Elisha wanted to know whether the Majority leader stood on a point of order while he was making contributions. The chair picked it that he was standing on a point of order. On whether the Hon. Oriaro was making factual statement about the existence of a fruit processing plant in Bondo, I personally did not know that there is such a venture in Bondo.

Hon. Oriaro: Ndori. I heavily accept to be penalized, but allow me only two days to bring a report and as a representative he does not know that there is such a venture next to his door step and even the leader of this House is not aware. I shall prove that beyond reasonable doubt.

Hon. Speaker: Yes, Hon. Osuri.

Hon. Osuri: thank you. I want to make it right to this Hon. House as it is in the report that the Committee undertook a visit to these three Counties to find out about the system of irrigation that is specifically on solar power irrigation so that we could compare the already piloted irrigation projects taking place in the

2016 SIAYA COUNTY ASSEMBLY DEBATES

County within certain selected Wards and also the Horticultural farming. I do agree that Siaya County is endowed with natural and permanent water resources that if put into irrigation, can improve productivity in the region and we do realize that when we compare the water levels of the three Counties, we find that Siaya water table is higher than any of the three.

But this water has been going to waste and has not been appropriately utilized, yet that was the main aim of that visit to those three Counties. If you look at the products from the said dry places like Kajiado and Machakos, you discover that they provide high milk product while we have vast land in Siaya that has not been utilized, so the Committee has recommended to the CECM Agriculture to relook into the County's irrigation policies that if well utilized like the solar, would increase productivity.

We already have one in my area called Mur malanga dairy plant which has for a long time been underutilized due to low milk capacity to process, yet if properly taken care of, we may never speak of lack of milk in the County again. So we are saying that we would wish that appropriate practices are put in place so that we can have improved productivity.

We do realize that like in the scandals that have been reported here is due to lack of Agricultural research Centre in the area and if we had one, we would have come up with varieties that can withstand drought and can be used to feed our animals. Therefore, if we use right policy and we have a research Centre, it would go a long way in increasing the productivity of Siaya. A part from the Agricultural products that are there, we do not have Co- operative societies that would help our farmers to market their products.

So, I support the report because the essence of the bench marking was to compare what is happening in the dry place to what is happening in Siaya so that in future we can have proper policies for this County that would increase Agricultural productivity.

Hon Speaker: Hon. Ndonji.

Hon. Ndonji: Thank you. I want to start by enlightening members on the main purpose of bench marking which is to compare what the other County has that could be better than the ones in our County, hence improve on what we have and make life better for our people. The second reason is to establish relationships; for example, as seen here we were trying to establish a relationship with an organization like KAGRO that does research on Agriculture. What we are having here is simply a report entailing what happened when we were there and it is not the legality of this report that we are debating here but what we went to do, therefore it's a report that entails how we moved the artilleries that we had when we went to these Counties.

I felt quite ashamed. No pun intended, we have students with us here and yet what we have displayed in this House today is too backward, if I may say so. A philosopher once said that "it is better to remain silent and be thought a fool than to speak and remove any doubt", and I am sorry to say without even pointing fingers at anyone, but it's only that some of these people do not understand what such a report means and they do not understand why we went to Makueni and these other places. Coming to the point...

Hon. Speaker: Hon. Walter Okello.

Hon. Okello: Just for the benefit of doubt, the Hon. Ndonji philosophical submission is alluding to the speeches that were made early on the Floor of this House.

Hon. Speaker: Hon. Ndonji, is it true that you could be implying that the earlier statements are regrettable to the extent that they should have not been spoken so that they did not have to display the ignorance and arrogance in the same time? Is that the case?

Hon. Ndonji: Yes, I tend to think that there was some ignorance displayed while certain members were speaking.

Hon. Speaker: Are you implying that the Hon. Members were ignorant?

Hon. Ndonji: What they were talking about is what was ignorant because they were not aware of what this report was all about.

Hon. Speaker: Hon. Ndonji that they were not aware is the same reason you have the Floor to make them aware and not to discredit their knowledge or for the lack of it and for the avoidance of doubt whatever has transpired in this Floor is right and in order because this is a Floor where you propose and oppose and that's what we are doing here. Will you proceed?

Hon. Ndonji: Thank you. I also wanted to say that there is a statement attributed to a Member who spoke earlier that we have a Juice processing plant within the County. The question is; are they working? Therefore, we cannot say that we have a Juice processing plant yet we have nothing in there apart from buildings. Even if they started running today, the question would be where we would get the raw materials from, that is: the Mangoes and other fruits.

We have to find a way in which these people are doing things so that we

can apply it here and ensure that we are doing the right things. The Committee is trying to encourage the issue of harnessing water through water pans though for me I thought they could even make it wider to think of other options of harnessing the water so that we can have enough water. I want to be very happy with what Hon. Were said that, SIBO provides 57% of water and that 43% goes to waste yet it can be used for irrigation. This report comes up with ways on how to avoid wastage of water and also talks of the importance of having Cooperative movements for example; here it is said that a group started by only 36 members if am not wrong and became a very big Cooperative at the end of the day.

We should ask ourselves why we cannot have such Cooperatives here so that lives of our people can be improved. I want to finalize by saying that I would wish the report is adopted so that the executive arm of Government can realize that there are areas that they are not doing well on., as a matter of fact there were claims and it was said that we had delegations within some part of the sub County where we even visited and found that whatever is happening out there is not the same as what is happening here and it is being done better there than in Siaya.

I just don't understand what Members want and if in case you are planting mangoes at a personal level and you want us to come and do bench marking at your place, we are very much ready to do so if it is going to improve the lives in Siaya County. Thank you, Mr Speaker, Sir.

(Applause)

Hon. Speaker: Yes, Hon. Deputy Speaker.

Hon. Adera: Thank you, Mr Speaker, Sir. I wish to congratulate the Agriculture Committee for their report being discussed now. Mr Speaker, Sir, the essence of benchmarking is to learn about best practices. It can either be in Siaya or outside the County. I am happy that the Agriculture Committee visited Kajiado, Machakos and Makueni Counties. Until recently, these are counties that were not doing well in terms of agriculture and for the Committee to have gone there; it means they are now doing well.

Siaya was ahead of the three counties in terms of agriculture but it looks like we have lost that glory and that is why we can afford to visit such counties. In my hey days, I remember ladies from Ukambani travelling all the way to Kisumu and Siaya because there was a lot of hunger in those areas, and for them to have now turned tables and it's us now visiting to learn from them, we should congratulate them for the good work they have done.

(Applause)

Mr Speaker, Sir, I don't agree with the insinuation that it was a picnic for Members to have visited the three Counties. That is like saying that visiting Israel to learn about best agricultural practices is also like a picnic yet we all know that though a desert, Israel is doing quite well in terms of agriculture and now everybody would want to go and learn best practices from them.

Mr Speaker, Sir, I am supporting this document but I also need to criticise it a bit. Page 5 talks about the composition and it says the Agriculture Committee has

ten members but the report is only signed by three members. It means that we are discussing a report which had quorum during its discussion. How can a whole document only be signed by three members? I tend to feel that there was no quorum when they were discussing this.

Again, when the Committee visited Ivaini farm, at the end we are told that in terms of technical expertise, the farmer is a qualified inseminator together with his daughter-in-law. Besides, his daughter is a researcher with ILRI, working on the production of embryos from tissue culture and one of the sons is studying in the USA on embryo transfer technique. All the three sons have been given a portion of the farm and are practising dairy farming. Mr Speaker, it was quite low for Committee to just tell us how a family is fairing on. How do you just decide to tell us that somebody and his daughter-in-law are qualified inseminators and---

(Applause)

Hon. Owii: May I rise on a point of information, Mr Speaker!

Hon. Speaker: Yes!

Hon. Owii: Good ideas always start with one person; and the truth of the matter is that any good idea by one person can easily be embraced by the whole family—

Hon. Adera: Mr Speaker, Sir, is the Member responding or he is on a point of order? He is contributing!

Hon. Owii: It's not a point of order, I am informing you!

Hon. Speaker: The two of you are on the Floor at the same time.

Hon. Adera: Yes! Take your seat, Hon. K'owii.

(Applause)

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Laughter)

Hon. Owii: Mr Speaker, Sir, there are times when our Deputy Speaker...

Hon. Speaker: Just allow him to finish.

(Hon. Owii took his seat)

Hon. Deputy Speaker, conclude your submission please.

Hon. Adera: Mr Speaker, I am wondering why the Committee did not find it fit to visit my farm in West Ugenya. If at all they wanted to see best farming practices, they should have come to my farm because I am one of the best farmers in this County. I have dairy cows, oranges, mangoes; I have many things in my farm. With those few remarks, Mr Speaker, I beg to support the report

(Applause)

Hon. Okite: Ahsante sana, Bw. Spika, kwa fursa hii uliyonipa. Ningependa kuipongeza kamati ya ukulima kwa kazi nzuri waliofanya. Ninaiunga mkono ripoti hii. Nimesikia wenzangu wakiongea na ningependa kumuambia Mheshimiwa Oriaro aisome ripoti hii kwa umakinifu sana. Katumaini haimaanishi mbegu; bali ni stesheni tuliozuru na kupiga gumzo na wakulima. Alipokuwa akiongea, alifikiria sisi ni wajinga sana---

Hon. Oriaro: Point of order, Mr. Speaker, Sir!

Mr. Speaker, is it really in order for a Member to make situational inferences out of my contribution which she could not decipher?

Hon. Speaker: What did you mean by *katumani*?

Hon. Oriaro: I talked of what the Hon. Deputy Speaker was grappling with. I talked of topography and ecology. Meaning, maize grown in those areas is different from maize grown in this area. That's what I referred to---

Hon. Speaker: As *katumani*?

(Laughter)

Hon. Oriaro: I heard *katumani* because they talk of growing maize but maize grown in those zones is merely *katumani*. Lastly, this is on irrigation. Is the Agriculture Committee right to talk on behalf of the Irrigation Committee?

Hon. Speaker: Ok. His *katumani* was not in reference to what is contained in the report. Tafadhali endelea.

Hon. Ndonji: Mr. Speaker, I think what Hon. Oriaro said is well captured in the Hansard. In fact, his aspersion was that we were talking of coming and planting *katumani* maize in Siaya. That is not in this report, Mr. Speaker, Sir.

Hon. Speaker: Point noted, will you precede, Hon. Okite.

Hon. Okite: Bw. Spika, ningependa kusema kuwa kabla mtu asimame na kuongea, lazima uipitie na uifahamu kwa kina kile ambacho unataka kuongelea. Wakati mwingine mjinga akierevuka, mwerevu huwa mashakani. Mimi pia ni mkulima lakini siwezi jisifu maanake sijafikia kile kiwango cha wenzetu kule Machakos. Tulienda huko ili tujifunze mengi kuhusu ukulima bora. Ninaiunga mkono ripoti hii. Asante sana, Bw. Spika.

(Applause)

Hon. Okello: Thank you, Mr. Speaker, Sir, for the opportunity to also add my voice to this very tantalizing

2016 SIAYA COUNTY ASSEMBLY DEBATES

debate. Allow me to congratulate the Agriculture Committee not only for this report but also for the kind of support they have been able to galvanize this afternoon in defense of this report. I am happy that this report has come at a time when the budget making process is still on.

One bit I like about this report is that if you look at page 7, there is some statistics and outlook of things as they are in the County. The third paragraph says, *in Siaya County absolute poverty is over 47% while 37% of the County's population is food insecure with about 58% rural inhabitants living below absolute poverty.* Mr. Speaker, Sir, this kind of information is quite important as it can inform how we structure our budget. A lot of these things depend on finances, planning and education so that people understand that we need to do something that is structured. The County's poverty index is at 47%, we ought to device ways of dealing with this and ensure that this statistic is reduced.

Another element that I am concerned with and I thought this would have been of much concern to my Chairperson Hon. Oriaro. We have always talked of actionable recommendations. When we do recommendations, they should be things that we can follow up on. In our oversight role as the Implementation Committee, we would like to go to the Executive after three months or so and ask them what they have done with a report from this House. That can only happen if our recommendations as Committees are actionable.

(Applause)

Mr. Speaker, Sir, without appearing to be undermining what is in this report, if I read what is written on

page 15 under recommendations, for me they sound more of suggestions. Look at the first one; *the CEC Agriculture to relook at the County's irrigation policy and come up with a sustainable solar power irrigation policy that can easily be adopted in all parts of Siaya County to promote agricultural activities.* This is a very good suggestion, but in terms of execution, we would be hard-pressed to hold the Executive accountable. I really want to put this to the technical team that works with the Committee. Of course some of these things may at times get out of the sight of members due to their busy nature. You see that at some point, these members were seriously engaged in advising farmers over there on a few elements.

When you scrutinize page 10, the Members urged farmers to purchase more gate valves to improve on water pressure control and distribution so as to help in wild life. Our Members were courteous enough to extend a bit of sympathy. Our planning should have been proactive in capturing this, if you read page 4; the driver took this Committee out and it says somewhere on the 3rd line. The study visit was necessitated by the key findings that were made by the Committee during its oversight role around the--- sites that were commissioned for up scaling of micro irrigation projects. The Committee noted that the main challenge faced by farmers with diesel powered drip irrigation system is sustainability. This comes out very clearly as a key opening statement.

Unfortunately, that is the last time we see this; when you go to the recommendation we expected a clear cost benefit analysis so that we would expect that these people are saying that when you run this thing using diesel, this is the cost

and there are the disadvantages so we are proposing this, because of the following in terms of quantifying the process. We are actually almost on the last line, this is the fourth year; people will look at us that on our fourth year down the line we were still putting suggestions without giving a proper cost benefit analysis while we have an Assembly that is experienced, since we have been Here for 3years doing budgeting, we have an adequate staff and without personalizing these reports because they are substances of this House. We should not think that when a Member speaks against the report, then it's a personal issue, these are properties of this Assembly and it's nothing personal.

The objective of going out was good, it was justified, the Members did well and went to the right places but there is something that has been lost especially in tying out the recommendations. Finally, I want to suggest that a very key recommendation in this report would have been that there are people doing serious agriculture in Siaya. If you go to Uyoma along that beach line, there is a lot of good horticulture going on there and a lot of other places. A key recommendation would have been to select one of these farmers' groups and organize for an exchange programme. Let them go there and see these things so that they can come back and transfer knowledge which can make good recommendations for the generations to come. The youth of Siaya County who I speak on behalf of Here are really looking forward and looking up to this House to stand up with them especially in developing a robust agricultural center that can create jobs that can ensure food security to eradicate poverty in this County. I think we need to go beyond just documentation, we need to

go beyond paper work, and we need action that will take us forward as a County without looking at the short term. Thank you!

Hon. Owii: Mr. Speaker, Sir, I am being instructed by Hon. Oriaro while I was keenly listening to Hon. Okelo and the truth of the matter is that in the plenary we have to add some flesh to a report like this one.

Hon. Speaker: Hon. Members be warned; don't scare your colleagues because even if the Speaker can't see you, they can. Hon. Pamela Nguni!

Hon. Nguni: Thank you, Mr. Speaker, Sir; I would like to support this report. In Siaya and in deed many other parts of this County, the backbone of any County is agriculture. If we were to boost our granary, diary or anything to do with agriculture then we need to go find out if other people there are doing it better than us or if we are doing it in the right way. Having seen what they do, having seen their yields to compare with what we have and if we are going to ridicule a job such as this, then we are going to make people not to want to do the things that should be done.

Benchmarking is very important and it has been said here, if we can find a place to benchmark in Siaya we shall go and benchmark. If we found a place to go and benchmark in Israel, we went and benchmarked but we cannot say because somebody went to Machakos, Makueni and Kajiado, that was a waste of time yet in Siaya the kind of irrigation schemes in those places are not here. The type of irrigation found in Uyoma and other beaches are child's play. If you look at what other Counties do then we need to talk with them and get the kind of knowledge and do ours better. There are

some men and women doing irrigation around Aram; they produce sukuma wiki and tomatoes but is that anything to build Siaya in terms of food security?

There is nothing wrong with going to those places to improve on the type of irrigation practised here. We need to encourage our people to do more and as leaders, where do we get the knowledge if we don't go to some of these Counties then come and talk to people who can help us in agriculture so that in Siaya we have food security. We need to find out the information, get the knowledge so that we can talk to the County Government of Siaya and get them to implement the best practices so that we can also be secure in food. I would like to support this team, what they did was a good thing because Siaya is backwards in agriculture.

This report is an eye opener, we want to bring it forward to the people who will work on it and if it is that the recommendations are just mere suggestions, then we now know that we need to recommend them to insist that they should be done according to a report that was brought and that is the work of the Implementation Committee.

Hon. Omwende: Thank you, Mr. Speaker, Sir, for the opportunity. In case any Committee wants to go for any benchmarking, it is very important to know their objective and mission for going for benchmarking. First and foremost I am rejecting this report; it is not clear in the report who the Committee was supposed to meet and that's why sometimes they end up being confused and if we are talking about a policy, you better weigh these policies. This is the second time Agriculture Committee is bringing a report that is substandard. Thank you.

Hon. Okwako: Thank you, Mr. Speaker, Sir, mine will be brief. First of all I support the report. Committee's bring benchmarking reports but there is no implementation. We debate and pass the reports but no action is taken. The mangoes we buy from Siaya, Ugunja and Kisumu are from Machakos, we want to start benchmarking within Siaya.

Hon. Speaker: Hon. Members, as to whether this report is properly before us by three or so signatures scattered, I want to say that in a Court it can be valid even if signed by the Chair alone.

(Applause)

But again you will ask yourselves why you have provisions for ten signatures but only three have appended. In future if you want your report not to invite many questions, have provision for one person to sign but it beats logic if you have ten provisions and only three people sign. Otherwise it is admissible, the Chairperson has signed.

Hon. Odhiambo: Mr. Speaker, Sir, I think you can see the mood of the House; you call upon the Mover to reply.

Hon. Owii: Mr. Speaker, Sir, Hon. Members have spoken and truly the mood of the House is that we are recommending this report but there are a few things that we need to bring on board. If we want to change the face of Siaya in terms of agriculture or in terms of economy in this particular region, we should not intent to do things the way we have been doing them over many years and we still come up with the same results. The essence of benchmarking is just to borrow a leaf so that we do things in a different manner to give us even better results. Some of us have opportunities not actually on benchmarking but just visits to those areas and we have admired what other

2016 SIAYA COUNTY ASSEMBLY DEBATES

colleagues are doing in those particular areas. What happens here that would have been another recommendation for this particular area is that there are agricultural projects which should be taken by the County Government as a County Government project and not a ward project. If we take money to the Ward for such purposes, that is why we normally narrow them to small projects that do not give a lot of impact.

This Report is actually a wakeup call for us that we have to come up with an irrigation policy. It is not even a suggestion; it is actually something that we have to do if we have to change the way we are doing things. I remember when the Agriculture team together with the Governor came to Uyoma where we do irrigation, what we were suggesting is what is being proposed here; that the way they are doing it there will automatically fail because we spent a lot of money and the results may not actually give us what could be enough for our people to use. I want to suggest that the purpose of this particular report is to boost our economy.

Siaya is endowed with a lot of potential, more particularly when we talk of water resources. We have rivers in Siaya and we have the lake around Siaya. Irrigation does not need water for domestic use like one Hon. Member was saying. No, we don't need that; I think those are the basis for benchmarking.

Irrigation actually needs that raw water and some of us who are coming from places where we are trying to practise irrigation; we know how much our people are getting. Hon. Okello and Hon. Muhula told you what we are doing down there, our youths are not even loitering; they are busy doing irrigation along the lake. But we now want to improve what they have

started and change the face of the economy of those particular areas.

(Applause)

Hon. Members, Siaya should not be the same when we are here. Like those bright gentlemen that came up first to talk to us; how I wish they talked while our visitors were not there.

(Applause)

It is going outside there that....

Hon. Speaker: Hon. Kowii, in your contributions...

Hon. Owii: I am just finishing.

Hon. Speaker: Take your seat...in your contributions be careful not to appear to be gagging Members from talking. Proceed.

Hon. Owii: I shall never try that again.

(Laughter)

I normally take instructions. I said that the entire Siaya as you can see has the potential for irrigation. The only thing is that we have not actually put irrigation as one major project for the entire County where we can use close to Kshs. 500 million just to start it.

Instead of doing these many roads, how I wish that money could be put for the purposes of irrigation to make some changes. The report is very suggestive, it even tells us that irrigation can never be successful in isolation, but its policies should be anchored along those elements that they have given us there.

Like crop research, you can see Hon. Members that it is only Hon. Oriaro who has done a bit of research on crop. All

2016 SIAYA COUNTY ASSEMBLY DEBATES

of us, Hon. Members, are just doing it the traditional way. Now we want to do it differently so that the face of Siaya could actually appear like those good places that these people have mentioned. Like even Israel, some of us had an opportunity of visiting that country. We saw with our eyes what these are that can be changed into one big land. How I wish that you join this team of Hon. Members that has actually brought one way of improving an economy in this particular area.

(Applause)

One year alone can change the face of Siaya! We people from the Southern part of Siaya are not actually used even to hunger. The only thing that we actually do there is serious farming but we have been depending on rain agriculture which at times fails like now in my area, it has failed! How about if we were doing irrigation? It would not have been the same. I wonder when we shall actually try to open our eyes to see reality. This is the only way of bailing Siaya out of poverty. It is the only way!

Irrigation is the only way to bail siaya out of poverty and I hope that what we pass here with our able Chairperson for Implementation, if he could actually use his energy, that kind of energy that I saw here can be used to ensure that all these things that have been passed here are implemented, then we can see a different Siaya within one year.

(Applause)

When we shall be going for Election, it will be different because we know you.

I want to end my remarks by saying that in some areas that I have gone to, the wasted water that Hon. Were is talking about has been seriously harvested into big dams which are purposely there for irrigation and we really wonder if you were serious when you were talking of the cost of one mango from those places.

When they come to Bondo you see what they are costing, between Kshs.30-Kshs.40 that is how we buy them here. For example, one single tree, I have planted mango, I just didn't want to brag. The truth is that one single tree of *ngoye* can give you around 1200 fruits. Just calculate 1200 x 20 and if you have more than 100 of the same tree that is more than pension that some of us may get at the end of the day.

I have every belief that we are on the track to bail Siaya out of this poverty. Enough is enough! We have done a lot of politics; we cannot do politics even with Agriculture. Like now, this particular County is going to go hungry because we are depending on these people to give us what they have. Now we cannot even get green vegetables in Bondo. They have to come from Molo and those other far places simply because those people are keen on irrigation. If you go to Naivasha, you will see how those people are operating even in their dairy farms.

I want to request very kindly that his is a report that we don't need to redo. We have done quite a number of reports but this is the only one that I would request you kindly to give support. I shall request our able Chairperson for Implementation to take...

Hon. Speaker: Hon. Kowii, a Committee is not controlled by one person. Stop singling out the Chair. Committee is a collective responsibility. Kindly finalize.

Hon. Owii: He has a lot of energy Mr. Speaker; if you encourage him then things will work well, Mr. Speaker. I rest my case. I support.

Hon. Speaker: The Mover, will you reply.

Hon. Ochieng: Thank you Chair, may I start by thanking the Committee and the entire Assembly for having discussed and put in their interest this report very wisely. I want to say that this Committee went to Makueni, Kajiado and Machakos for the benchmarking as it has already been explained in the report. It is only that some of the Hon. Members were not aware of the reasons this Committee went to these 3 Counties.

In Makueni, we know very well how Kamba land is very dry but despite the drought in Ukambani, they can still produce mangoes and these horticultural fruits for export and internal use within our Country. This shows that there are some good practices that they are doing that are making them produce these mangoes for export and for use locally within the Country and this is what makes us go to Makueni and as you can realize, one of the major towns in Makueni is established, built and maintained by the farmers that are doing horticulture in the area.

I would urge my fellow colleagues too that as much as some were expressing their interest in doing and some had already started doing, this report be adopted and exercised by the entire Siaya County and not only Hon. Members.

Mr. Speaker, Sir, during our benchmarking to Kajiado, we also learnt that their Solar pumped irrigation is doing much better than our diesel pumped irrigation. The solar pumps are also cheaper and easier to maintain as

compared to the diesel- run pumps in our County.

We urge the County Government or the Executive to adopt their systems because they can be easily maintained and give good produce to our farmers who are also doing irrigations within Siaya County.

While in Machakos, the Kyallo farm, we witnessed a farm producing 60 liters of milk a day from one cow, a thing we don't have in our County. Going to benchmark there was just a matter of learning the good practices that they are doing that we are not doing in Siaya County so that we can bring it back to our people to also do the same and harvest the same milk that Kyallo farm is getting.

In the long run, as much as we also know when we talk about Machakos, it is still in Ukambani and the climate there is just harsh like the other parts of Ukambani and the rainfall there can't be compared to the rainfall in Siaya County yet they can still manage to do the dairy farming and produce as much milk as they are producing. This is just a matter of planning; they do a proper planning where they plan by the little rains that they are getting whereby they preserve these waters for irrigation for their pastures for the dry season. This is what has enabled them to be producing high volumes of milk.

Otherwise, I want to thank Members as I did earlier and call for our able Implementation Committee to make sure that this report, after being adopted by the Assembly, be implemented by the Executive and I would also urge and welcome the input that has been brought by our able Members like Hon. Walter Okello and others who I may not mention their names to be also considered and see to it that this report helps the entire Siaya County. The money that we used in going

for the benchmark should not go to waste and that will happen if this report is implemented and the results are seen as soon as possible.

What other Members were saying of the processing plants down here in Siaya and Rarieda still are elephant projects which means that they lack the raw materials but when they practise planting mangoes and producing mangoes then we get the raw materials for our factories and that will be job creation for our youths who are unemployed. Otherwise I thank you and the entire Assembly.

(Applause)

(Question put and agreed to)

Hon. Speaker: May we be upstanding for adjournment, Members.

(Members rise)

There being no any other Business, this House adjourns until tomorrow Wednesday, 29th of June, 2016 at 9.30 a.m. in the Chambers.

The House rose at 4.52 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

THURSDAY, 30TH JUNE, 2016

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

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

PRAYER

PAPER

THE REPORT OF THE BUDGET AND
APPROPRIATIONS COMMITTEE ON THE
BUDGET ESTIMATES FOR THE FY
2016/2017

Hon. Odinga: Mr. Speaker, Sir, I wish to lay on the Table of the House:-

The Report of the Budget and
Appropriations Committee on the Budget
Estimates for the Siaya County Executive
and Assembly for the FY 2016/2017

*(Hon. Odinga laid the document on
the Table)*

NOTICE OF MOTION

THE REPORT OF THE BUDGET AND
APPROPRIATIONS COMMITTEE ON THE
BUDGET ESTIMATES FOR THE FY
2016/2017

Hon. Odinga: Thank you once again, Mr. Speaker, Sir. I wish to give notice of the following Motion:-

THAT, this House adopts The Report of the Budget and Appropriations Committee on the Budget Estimates for the Siaya County Executive and Assembly for the FY 2016/2017 laid on the Table of the House today, Thursday, 30th June, 2016.

STATEMENT

Hon. Speaker: I am aware that there is a Statement from Hon. Elisha Okuku, but it was not put in the Order Paper. The House Business Committee will consider it on Tuesday and subsequently have it put in our Order Paper.

Next Order!

MOTION

THE REPORT OF THE BUDGET AND
APPROPRIATIONS COMMITTEE ON THE
BUDGET ESTIMATES FOR THE FY
2016/2017

Hon. Odinga: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts The Report of the Budget and Appropriations Committee on the Budget Estimates for the Siaya County Executive and Assembly for the FY 2016/2017 laid on the Table of the House today, Thursday, 30th June, 2016.

I call upon Hon. Muhulah to second.

Hon. Muhulah: Seconded.

Hon. Odinga: Mr. Speaker, Sir, as I have just requested, I wish to briefly take Members through the report. Copies of the report were earlier on sent to Members and I know that they have gone through it, so, I just want to give highlights on areas I feel need some explanations.

PREFACE

Mr. Speaker, Sir, the Constitution of Kenya, 2010 has placed significant

2016 SIAYA COUNTY ASSEMBLY DEBATES

responsibility on the County Assembly over the management of the county's public resources. The Assembly in particular has the responsibility with regard to resource mobilization, allocation, monitoring and control. Section 131 (2) of the Public Finance Management Act, 2015 (Revised) contemplates a relevant committee to discuss, review and make recommendations to the County Assembly. Standing Order No 216 (5) in particular gives this responsibility to the Committee on Budget and Appropriations.

Mr. Speaker, Sir, in line with the provisions of Section 129 (2) (a) of the PFM Act, 2015 (Revised), the budget estimates for the County Government of Siaya (including the County Executive and the County Assembly) were submitted to the County Assembly on 28th April 2016 thereafter committed to the Committee on Budget and Appropriations as well as other Sectoral Committees for discussion, review and making of recommendations to the County Assembly.

Mr. Speaker, Sir, the Budget and Appropriations Committee therefore has examined and discussed the Siaya County Budget Estimates for Financial Year 2016/2017 and has therefore made recommendations as contained in this report.

COMMITTEE MANDATE

Mr. Speaker, Sir, the Committee on Budget and Appropriations, established under Standing Order No. 197 and is mandated to do the following;

- 11) Investigate, inquire into and report on all matters related to coordination, control and monitoring of the County budget;
- 12) Discuss and review the estimates and make

recommendations to the Assembly;

- 13) Examine the County Fiscal Strategy Paper presented to the House;
- 14) Examine Bills related to the County budget, including Appropriations Bills; and
- 15) Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.

COMMITTEE MEMBERSHIP

Mr. Speaker, Sir, the Committee on Budget and Appropriations as was constituted by this Assembly comprises the following members;

Name of Member

19. Hon. Jack Odinga, MCA
- Chairperson
20. Hon. Peter Muhulah, MCA
- Vice Chairperson
21. Hon. Joseph K'awuor, MCA
- Member
22. Hon. Sylvester Madialo, MCA
- Member
23. Hon. Nicholas Ochieng Aneme, MCA - Member
24. Hon. William Owiti Angul, MCA
- Member
25. Hon. James Obiero Otare, MCA
- Member
26. Hon. Margaret Oketch, MCA
- Member
27. Hon. Jared Abayo, MCA
- Member

COMMITTEE MEETINGS

Mr. Speaker, Sir, in reviewing this Siaya County Budget Estimates for Financial Year 2016/2017, the Committee held 20 meetings together with the public hearing meetings held at the wards. In line

with Article 196 of the Constitution of Kenya, 2010 and Section 131(2) of the PFM Act, 2015 (Revised), the Committee also held public hearings with the County Youth leadership, the leadership of the People With Disabilities (PWDs), the Chamber of Commerce (Siaya Branch), Maendeleo Ya Wanawake and the general public on the estimates. The Committee also received a memorandum from the Civil Society groups within the County.

The public hearings with the general public were held in the 30 Wards of the County. These hearings were held to get the views and recommendations of the people of Siaya County on the proposed budget estimates and their opinion on areas where more resources are required and also areas where there should be expenditure cuts.

Mr. Speaker, Sir, allow me to sincerely thank the members of the public and other interest groups who participated in the consultations and whose valuable opinions this Committee has taken into consideration. This report has an annex of the public hearing meetings and I also have a document here with signatures of all those people who attended the public meetings across the 30 Wards.

Mr. Speaker, Sir, in considering this proposed County Budget Estimates, this Committee also met and sought the opinion of the County Executive Committee (CEC) Member for Finance on the estimates of revenue and expenditure and has subsequently considered his opinion as required by Section 131 (2) of the PFM Act, 2015 (Revised).

Finally, Mr. Speaker, Sir, to ensure conformity with Section 129 (2) (b) of the Public Finance Management Act, 2015 (Revised), this Committee confirmed that the estimates submitted were in

accordance with the resolutions on the County Fiscal Strategy Paper, 2016 adopted with amendments by this County Assembly on Thursday, 10th March 2016.

ACKNOWLEDGEMENTS

Mr. Speaker Sir, first and foremost, on behalf of this Committee I wish to thank the people of this County who came out in numbers during the public participation at the Wards. For sure, this budget wouldn't have been better without their worthy contributions.

This Committee similarly extends its gratitude to Executive's Finance Department of the County Government for facilitating the activities of the Committee both during its Committee Sitzings and the public hearings.

The Committee is also particularly grateful to the offices of Siaya County Assembly Speaker and the Siaya County Assembly Clerk for the support received as it discharged its mandate of examining the Siaya County Budget Estimates for Financial Year 2016/2017.

Special appreciation also goes to the Secretariat to the Committee who, on several occasions, had to go beyond the normal call of duty. The commitment and devotion to duty of all those involved in this noble task made the work of the Committee and production of this report a success.

Mr. Speaker, Sir, it is therefore my pleasant duty and privilege, on behalf of the Budget and Appropriations Committee, to Table this report and recommend it to the Assembly for adoption.

ALIGNING THE 2016/2017 BUDGET TO THE COUNTY FISCAL STRATEGY PAPER 2016

Mr. Speaker, Sir, Kenya adopted

2016 SIAYA COUNTY ASSEMBLY DEBATES

the Medium Term Expenditure Framework (MTEF) approach to budgeting, which ensures that there is a clear link between policy, planning and budgeting. The content of this budget has generally been informed by the County Integrated Development Plan (CIDP), the Annual Development Plan (ADP) and the Fiscal Strategy Paper (FSP) 2016 as approved by the County Assembly. In addition to the above, the fiscal year 2016/17 MTEF has been prepared by incorporating the input by the citizens during the public hearings at Ward levels held during the months of January and February, 2016 by the Executive and between 20th June, 2016 and 26th June, 2016 by the Budget and Appropriations Committee.

Mr. Speaker, Sir, during its public hearing meetings and while meeting with the County Treasury, this Committee observed that the priority of this County has changed to a great extent and if our County is to fully enjoy the benefits of

Programme Based Budget, for instance, increased efficiency of expenditure as well as its effectiveness, it must consider updating of the CIDP as provided for in Section 112 of the County Government Act, 2012 and ensure reporting of achievements of the various targets is done on a quarterly basis.

**HIGHLIGHTS OF THE 2016/2017 BUDGET ESTIMATES
FINANCING OF THE 2016/2017 BUDGET**

Mr. Speaker, Sir, the County Government expects to finance the 2016/2017 budget through the local revenue, the CRA Equitable Share from the National Government and from other development partners. The County expects a total resource envelope of Kshs. 6,012,489,451 from various sources as shown in Table 1 below.

Table 1: Summary of County Revenue and Funding Estimates for FY 2016/17

Revenue Item	Estimates 2016/2017	Percentage to total revenue (%)
CRA Equitable Share	5,389,991,057	89.65
Local Revenue	270,000,000	4.49
Conditional Grants		
Free Maternity Health Care	112,559,127	1.87
Compensation for User Fee Forgone	19,057,307	0.32
Road Maintenance Levy Fund	82,817,177	1.38
Leasing of Medical Equipment	95,744,681	1.59
DANIDA	13,765,000	0.23
Kenya Devolution Support Programme	28,555,102	0.47
TOTAL	6,012,489,451	100

Mr. Speaker, Sir, the Committee is concerned that the 2016/2017 projections from the local revenue has continuously gone down for the last three financial years, i.e. 2014/2015 (Kshs. 300 million), 2015/2016 (Kshs. 230 million) and now Kshs. 200 million in 2016/2017. This could imply that the county is increasingly

depending on the disbursements from the national government, a factor which may not see the county move towards ensuring self-sustaining development. In view of this, the Committee recommends that the local revenue projection be enhanced to Kshs. 270 million.

The details of the projected local

2016 SIAYA COUNTY ASSEMBLY DEBATES

revenue estimates are shown in Table 2 below;

Table 2: Details of the County Local Revenue for FY 2016/17

No	Revenue Source/Base	Total Estimates
1.	Single Business Permit	55,000,000
2.	Market Fee	55,000,000
3.	Bus Park Fee	27,000,000
4.	Parking Fees	20,000,000
5.	Fish Cess Fee	6,500,000
6.	Plan Approval fees-Lands	1,500,000
7.	Plan Approval fees-Hosp	500,000
8.	Plan Approval Fee-Works	500,000
9.	Transfer Fees	1,000,000
10.	Miscellaneous Fee	3,240,000
11.	Plot Rates	16,150,000
12.	Plot Rents	5,900,000
13.	School Fees	250,000
14.	Slaughter Fees	896,500
15.	Ground/Stall Rent	5,239,800
16.	Burial Fees	30,800
17.	Sand Cess	1,200,000
18.	Cilor	37,900
19.	Sugar Cess	4,500,000
20.	Boda Boda Fee	3,500,000
21.	Health Department	45,500,000
22.	Agriculture	8,500,000
23.	Trade	555,000
24.	Liquor License	7,500,000
	Total	270,000,000

COUNTY EXPENDITURE DURING 2016/2017

expenditure estimates for 2016/2017 is Kshs. 6,012,489,451 which is apportioned as shown in Table 3 below;

Mr. Speaker, Sir, the total proposed

Vote		Recurrent expenditure (2016/17)	Development expenditure (2016/17)	Net estimates (2016/17)	% of total
001	County Executive	3,569,701,857	862,873,122	4,432,574,979	73.72
002	County Assembly	599,914,472	80,000,000	679,914,472	11.31
004	Transfer to the Wards	0	900,000,000	900,000,000	14.97
	TOTAL	4,169,616,329	1,842,873,122	6,012,489,451	100

Mr. Speaker, Sir, the above expenditure is further allocated to various sectors as shown in Table 4;

Table 4: The Departmental Expenditure Summary

Department	PE	O&M	Total Recurrent	Development	Budget Allocation	Percentage
County Assembly	318,079,846	281,834,626	599,914,472	80,000,000	679,914,472	11.31
Governance	272,481,446	173,134,530	445,615,976	15,000,000	460,615,976	7.66
Finance, Planning and Vision 2030	228,508,130	428,414,934	656,923,064	55,000,000	711,923,064	11.84
Water	28,257,424	73,490,681	101,748,105	131,280,000	233,028,105	3.88
Agriculture	160,904,000	102,790,162	263,694,162	155,833,150	419,527,312	6.98
Education	125,455,595	140,396,074	265,851,669	268,860,000	534,711,669	8.89
County Health	979,970,514	506,722,796	1,486,693,310	260,784,681	1,747,477,991	29.06
Lands	22,985,001	34,857,200	57,842,201	28,200,000	86,042,201	1.43
Trade	18,396,517	30,865,561	49,262,078	150,968,158	200,230,236	3.33
ICT	14,093,582	108,978,253	123,071,835	33,990,000	157,061,835	2.61
Works	20,810,558	94,728,855	115,539,413	666,417,177	781,956,590	13.01
TOTAL	2,189,942,613	1,976,213,672	4,166,156,285	1,846,333,166	6,012,489,451	100.00
Percentage (%)	36.42	32.87	69.29	30.71	100.00	

PROGRAMMES FOR THE 2016/2017 BUDGET ESTIMATES AND THE COMMITTEE RECOMMENDATIONS

Improvement of Governance and Administration through Investment in Devolution Structures for Effective Service Delivery

1. County Governance Sector

Mr. Speaker, Sir, under the Governance Sector, the County Government intends to enforce the County by-laws; review the existing laws and regulations as well as recruit and train officers in the enforcement unit. Specifically, the County Government plans to undertake the establishment of structures to enforce the County laws. This would be done in liaison with the Court Users Committee at the County Level.

Mr. Speaker, Sir, as regards the Siaya County Public Service Board, the

County Government has allocated Ksh 10 million for the completion of County offices at Bondo Town; a building which will be used to house the County Public Service Board. The Government has also allocated Ksh 54 million to be committed for the Lake Basin Economic Bloc, of which Ksh 44 million shall go towards the regional bank while Kshs. 10 million shall go towards the Secretariat.

Mr. Speaker, Sir, the County Government has also proposed to allocate Kshs. 495,891,382 to be spent under the recurrent expenditure in the County Governance Sector. This will include the personal emoluments, civic education of Kshs. 2 million, special programmes of Kshs. 6 million, public participation of Kshs. 4 million, liaison office operations of Kshs. 5.5 million and devolution conference of Kshs. 5 million, among other recurrent expenditure.

Mr. Speaker, Sir, in view of the fact that the County Government intends to partner with other neighbouring

counties to form a Regional Economic Bloc, this Committee recommends that the County Government should organize fora to sensitize its people on the structure and tangible economic benefits of the Economic bloc. The buy-in of the people cannot be overstressed. As the County sensitizes the public on the Economic Bloc, this Committee recommends that Kshs. 10 million be allocated for the Secretariat to enable establishment of structures for the bloc.

This Committee further recommends that the County Government considers the completion of County offices at Bondo Town under the Works Department. These offices can then be used to house County Public Service Board.

2. The County Assembly

Mr. Speaker, Sir, the County Government proposes to provide Kshs. 599,914,472 based on the Commission of Revenue Allocation (CRA) ceiling. Additionally, Kshs. 50 million has been proposed for the development of the Assembly's infrastructure.

Mr. Speaker, Sir, during the public participation exercise, members of the public raised a raft of issues regarding the planned construction of the Assembly complex. Notably, the public felt that the allocation of Kshs. 100 million as was proposed by the County Assembly Service Board was on the higher side and hence should be abridged. It is against this backdrop that this Committee recommends that the allocation towards this plan be staggered and the project done in phases over the medium term. Because of the limited resources following the reduction in the Commission on Revenue Allocation (CRA) Equitable Share to the County, this

Committee recommends that the Government allocates Kshs. 80 million for the development of the Assembly infrastructure.

3. Finance, Planning and Vision 2030

Mr. Speaker, Sir, in order to expand the revenue base vis a vis providing quality services to the residents of Siaya County, the County Government intends to prioritize the construction of Bondo Bus Park, renovation of Siaya Bus Park and the construction and marking of parking bays in Siaya Township in order to enhance its revenue streams.

The Sub county administrations in Gem and Rarieda sub counties have continued serving without substantive offices and physical structures. The County Government therefore intends that in addition to the completion of the Ugunja Town Hall, it shall prioritize the construction of sub county headquarters for Gem and Rarieda sub counties.

On public participation and civic education, and given the importance of the exercise among the members of the public and as envisaged in both the National and the County laws, the County Government has proposed an allocation of Kshs. 28 million and Kshs. 50,669,786 for civic education and public participation respectively.

The County Treasury has also proposed to meet the pending obligations to creditors, some of which were incurred on legal fees for the County Government and the outstanding salary arrears for the defunct local authorities. One motor vehicle will also be purchased at Kshs. 8 million for the Budget Department. The Government has proposed to allocate a total of Kshs. 573,557,185 to help fund its

recurrent under the Finance and Economic Planning Department.

Mr. Speaker, Sir, during Committee deliberations with the public, it was imperative according to the public that the construction of bus parks, parking bays and the sub-county offices be delegated to the Department of Roads, Transport and works. The motivating factor in this bearing was the engineering aspect involved in the construction of the parking bays. In this view, the committee recommends that the projects be handled with the department of roads, transport and works.

Mr. Speaker, Sir, regarding the civic education and public participation, though the County Government had made proposals as indicated above, the Committee has learnt that the National Government has provided for a Kenyan Devolution Support Programme of Kshs. 28,555,102 and this will cater for the civic education and public participation hence no need of allocating further resources on the activities.

4. Lands, Physical Planning, Surveying and Housing

Mr. Speaker, Sir, under the Lands Sector, the County Government identifies the absence of spatial plans and lack of automated land records as major hindrances to development efforts. The County Government therefore plans to prepare spatial plans and automation of land records. Kshs. 20 million has therefore been proposed to be added to the Kshs. 41 million allocated by this County Assembly during the FY 2015/2016 and be used in the completion of the preparation of the County Spatial Plan. Another Kshs. 4 million and Kshs. 6 million has been proposed to be used in the automation of land records and land bank respectively.

Further, the County Government has proposed the allocation of Kshs. 1.5 million for the survey of Yala Swamp. The County Government proposes an allocation of Kshs. 48,771,466 as recurrent expenditure in the Lands Sector.

Mr. Speaker, Sir, following the public hearing meetings conducted by the Committee on the proposed Budget Estimates, it is convinced to recommend that the local elders should be involved in the survey of Yala Swamp so as to help in establishing the traditional boundaries of the swamp.

Mr. Speaker, Sir, this Committee has also noted that there was an issue with the classification of projects as to whether development or recurrent in nature. In view of this, the Committee therefore recommends that the allocation of Kshs. 4 million be done as a recurrent budget.

5. Trade, Industry and Cooperatives Development

Mr. Speaker, Sir, the County Government has proposed to develop market infrastructure to improve the business environment. It also proposed to establish county micro and small enterprises initiative, revolving fund for the cooperative and encourage fair trade practices. In particular, the County Government has proposed an allocation of Kshs. 50.7 million to be used for the construction of modern markets at Ramba (Siaya), Bondo and Yala. Another Kshs. 5 million has been proposed to go towards the construction of a business hub at Ukwala.

Additionally, the County Government proposes that Kshs 6.49 million and Kshs. 48 million respectively be allocated as seed monies for the Trade Loan Fund and Cooperatives Revolving

Fund respectively. Kshs. 10 million has also been proposed for installation of solar lights in various markets. Kshs. 44,192,415 has also been proposed to go towards the recurrent expenditure for the Sector.

Mr. Speaker, Sir, during public participation, the Committee noted that there were considerable interests on the amount of funds allocated to the Cooperative and Trade Development Funds. The public indicated that a reasonable per centum of the monies be added as the current allocation was too little. In view of the above public concerns, this Committee recommends that the Cooperative Revolving Fund be enhanced to Kshs. 50 million while the Trade Loans Fund is increased by Kshs. 8 million to Kshs. 14,490,000.

In addition, there were considerable concerns on the quality of solar lights that have been previously installed and the committee strongly recommends that inspection committee be set up to oversee the solar lights that will be purchased. In regard to control of drug abuse; the CECM for Trade should move with speed and implement the Alcoholic Drinks Control Act, 2015.

SOCIAL TRANSFORMATION THROUGH INVESTMENT IN HEALTHCARE SERVICES, EDUCATION, YOUTH, CULTURE AND SOCIAL SERVICES

6. The County Health Sector Improved healthcare services

Mr. Speaker, Sir, under this sector, the County Government proposed to invest heavily in medical supplies to ensure drugs are available in all health facilities. Towards this, the County Government has proposed an allocation of Kshs. 143.1 million for medical drugs, Kshs. 68 million for dressing and non-

pharmaceuticals, Kshs. 4.2 for chemicals and industrial gases and Kshs. 36.6 million for laboratory materials and supplies.

On the sector's automotive, the Government proposed the allocation Kshs. 7 million for the purchase of utility vehicle for CHMT Supervisions (Long Chassis), Kshs. 4.75 million for purchase of drug distribution vehicle (Built single cab pick-up) and Kshs. 4.1 million for maintenance of the ambulances. It also intends to continue with the refurbishment of the Siaya Referral Hospital, proposing Kshs. 40.7 million for the construction works at the hospital.

To effectively offer health services to the residents of this County, the County Government proposed that 30 KEPI fridges be purchased and distributed to at least one health facility per Ward at a total cost of Kshs. 7.5 million.

Mr. Speaker, Sir, to ensure a 24 hour service at the health facilities, the County has proposed an allocation of Kshs. 10 million for the construction of staff houses at Ukwala and Rera health facilities as the County prioritizes to purchase a CT scan machine at the Siaya County Referral Hospital at Kshs. 35 million.

Mr. Speaker, Sir, the Community Health Volunteers have been an integral part of the health service delivery in this County. Currently, they are paid a stipend of Kshs. 2,000 per month. The County Government has therefore proposed that this be increased to Kshs. 3,000 per month to motivate them for better service delivery.

The County Government has therefore proposed to allocate Kshs. 1,527,481,575 for the recurrent expenditure under the Health Sector.

Mr. Speaker, Sir, despite resources having been allocated towards the purchase and supply of drugs to the health facilities, this Committee observed during the public participation exercise that drugs availability in the facilities is unreliable for the residents. The Health Department should devise measures to ensure smooth supply and reliable availability of drugs in the health facilities.

Mr. Speaker, Sir, jigger menace has always been a challenge in some areas within the County. This has brought with it adverse effects on not just learning but also the health and social wellbeing of the affected families. To effectively curb this threat, this Committee recommends that more attention should be given to the anti-jigger campaigns.

7. Education, Youth Affairs, Gender and Social Services Sector

Access to Quality Early Childhood Education

Mr. Speaker, Sir, under this sector, the County Government proposed to improve quality of early childhood education by posting more ECDE teachers and providing equipment and relevant facilities. Towards this, Kshs. 105 million has been proposed to cater for the additional recruitment of 200 ECDE teachers and payment of a total of 800 ECD teachers during the FY 2016/2017. Kshs. 30.1 million has also been proposed to ensure purchase of ECD equipment and furniture across the County. The County as well has prioritized the construction and equipping of some ECD classrooms and that this will be implemented using the ward allocated resources.

Mr. Speaker, Sir, the County's Education Department has proposed to introduce pre-primary school feeding programme. This will encourage increased enrolment in pre-primary schools in the County; improved nutrition among young children resulting into brain development and improved performance in school; and provision of quality and appealing pre-primary education. Kshs. 20 million has been proposed as seed money to fund the programme within the next financial year. The Committee further recommends that this be factored under the recurrent budget so as to conform to the acceptable budget classification.

Mr. Speaker, Sir, to ensure effective implementation of the pre-primary feeding programme, this Committee recommends that a policy be fast-tracked. Additionally, the County should plan to fully equip all the ECD centres already constructed within the County.

Strengthening Vocational Education and Training

Under this strategic priority, the County Government is focused on making the youth polytechnics attractive to the youths as an alternative to students by modernizing instruction systems. To do this, the County Government has proposed to improve workshops and classrooms to make learning environment conducive through; provision of training tools, teaching materials and recruitment of instructors in order to upgrade skills. The County Government has also proposed an allocation of Kshs. 9 million for the procurement of equipment and tools to 18 newly constructed youth polytechnics within the County.

Mr. Speaker, Sir, to ensure effective quality and affordable education in the polytechnics, the County Government has proposed that Kshs. 15 million be allocated for the subsidized Youth Polytechnic Tuition (SYPT). This will ensure that 1,000 students are supported at the rate of Kshs. 15,000 per student per year. Additionally, on the village polytechnics, this Committee recommends that the County Government provides for the recruitment of at least 2 polytechnic tutors for each of the newly constructed polytechnics.

Mr. Speaker, Sir, during the public hearing meetings and the Committee meetings, there arose a concern on the adequacy of the SYPT given the rising number of studentship in the village polytechnics. In view of the above concern, this Committee recommends that in the medium term, the County should increase the resource allocation into this programme. Most importantly, the Education Department should, within 30 days come up with a legislation to operationalize this fund. Furthermore, the County Government has previously constructed a number of village polytechnics and to ensure their full operations, the County should strive to facilitate their registration and full operationalization of the institutions by January 2017.

Social Protection and Preservation of National Heritage

Mr. Speaker, Sir, the County Government proposed to provide bursaries to students in post- primary institutions to ensure they complete their studies and establish a revolving fund for youth, PWDs and women entrepreneurs. It would further enhance older persons' cash

transfers. To promote sports in the county, the County Government proposed to modernize Siaya stadium and Migwena Sports Ground.

To fund the above programmes, the County Government has proposed to allocate Kshs. 75 million for the bursary which would be implemented at the rate of Kshs. 2.5 million per Ward. Kshs. 20 million has been proposed to fund the empowerment programmes for the youth, women and PWDs while another Kshs. 20 million would go toward the social protection fund.

Mr. Speaker, Sir, to promote the sports activities within the County, the County Government has proposed that Kshs. 12.19 million be allocated for the completion of the perimeter wall of Siaya Stadium as well as Kshs. 10 million for establishing of a sports talent academy at Migwena sports center. In considering the allocation for the stadia, the Committee is of the view that the allocation for the Siaya Stadium may not be adequate given the activities required to be done at the project. In view of this, the Committee recommends an addition of Kshs. 20 million into the completion of perimeter wall at Siaya Stadium.

Mr. Speaker, Sir, the County Government intends to establish a Social Health Insurance Scheme which targets the very poor including persons living with disability, needy and vulnerable older persons, needy and vulnerable orphans, widows and widowers. The indigents will be identified and issued with health insurance cards which they will use to access health services within health facilities in the County. The NHIF refunds will be paid to the health institutions and back to the County Government as revenue as the indigents increasingly will be able to

access Medicare, experience good health, become active and live longer. The County Government has proposed to allocate Kshs. 12 million which will be expected to be increased progressively and expand the net.

In conclusion, the County Government has proposed a total of Kshs. 260,152,875 to be used towards recurrent expenditure for the Education sector.

Mr. Speaker, Sir, the Committee observed that the people of Siaya County greatly appreciate the allocation of funds to empower the special interest groups – the Youth, Women and the PWD. However, the Committee further learnt that though a good number of the members of the above groups have come together in economic development groups, there is still little knowledge and skills on the preparation and implementation of business plans among such tools that enable the operations of these groups. This Committee therefore recommends that the Education Department should give attention to capacity building and training on business plans for the groups earmarked for this revolving fund on the Youth, Women and the PWDs.

Mr. Speaker, Sir, arising from the public hearing meetings, this Committee recommends that the revolving fund on the Youth, Women and the PWDs be enhanced to Kshs. 30 million so as to cater for rising number of youth, women and PWDs interested in economic groups.

8. Water, Environment and Natural Resources Sector.
Improved Access to Quality Water and Sewerage System and Environmental Conservation and Management

Mr. Speaker, Sir, under this sector, the County Government proposed to construct and equip new shallow wells,

dams and pans. It will also rehabilitate existing shallow wells, dams and pans after evaluation. The development and maintenance of water supply infrastructure programmes shall be done at the Ward levels using the resources allocated to the Wards. The County Government also proposes to purchase a self-loading waste management tractor at Kshs. 15 million.

Mr. Speaker, Sir, the County Government had got into partnership to implement two major projects in the water sector. These are; the provision of safe water filters to households in Siaya County (Programme Supported by Great Lakes Foundation, Just One Foundation, Uzima and Siaya County Partnership) and support to the Water Tower Protection and Climate Change Mitigation and Adaptation Program in Siaya County (EU Funding for Mt. Cherenganyi and Elgon Water Towers). Towards the two projects above, the County Government recommends an allocation of Kshs. 4 million and Kshs. 5.49 million for the two projects respectively.

The County Government additionally has proposed an allocation of Kshs. 27.8 million as a subsidy to the Siaya Bondo (SIBO) Water and Sanitation Company. Kshs. 102,141,065 has therefore been proposed as the total recurrent budget in the Water sector.

9. Agriculture, Livestock, Fisheries and Irrigation Sector
Agricultural Transformation for Improved Food Security through Investment in Crop, Fisheries and Livestock Production

Mr. Speaker, Sir, the County Government had identified transformation of the agricultural sector as a necessary prerequisite for economic growth, employment creation and industrial

development in the county. In order to sustain the gains made, the County Government plans to;

- a. Improve livestock productivity through procuring artificial insemination services; purchase of improved dairy cow breeds, feed conservation equipment and establishment of fodder material. It will also invest in poultry keeping through purchase of grade chicks, incubators, establishment of poultry demonstration units and community abattoirs, conducting vaccination campaigns, improvement of poultry houses and establishment of revolving fund for value chain enterprise development to generate income
- b. Improve crop production through refurbishment of Siaya Agricultural Show Ground and procurement of certified seeds and fertilizers
- c. Develop fisheries activities through provision of; subsidized fishing gears; fish farming inputs; and restocking of dams as well as natural water bodies

Mr. Speaker, Sir, to fund the above programmes, the County Government has proposed that Kshs. 8,900,988 be allocated towards purchasing grade breeding dairy cows and chaff cutters, provision for AI services, training of dairy keepers and procurement of AI semen and equipment.

The County Government has further proposed that Kshs. 30 million be approved for the procurement of certified assorted seeds and fertilizer for the Wards

at the rate of at least Kshs. 1 million per Ward which can then be enhanced by the respective wards at their discretion. Additionally, the County Government proposes that Kshs. 5 million each be allocated for provision of fish farming inputs to support farmers and poultry enterprise development project to train poultry keepers, procure incubator and construct model demo unit.

Mr. Speaker, Sir, several Bills have been put in line for operationalization of various services within the Department. To facilitate these Bills and other relevant regulations, the County Government proposes that Kshs. 1.99 million be allocated for policy development. The Government has also proposed the allocation of Kshs. 10,527,979 and Kshs. 23,460,044 for Siaya Annual Trade Show and Exhibition and Tractor Hire Services respectively.

In conclusion, the County Government has also proposed that Kshs. 9,244,139 be allocated for the Animal Health Support Project. This money will go towards procurement of vaccines, training keepers, construction of 1 satellite veterinary laboratory, equipping and training of technicians.

As part of recurrent expenditure, the Government proposes to buy a motor vehicle at Kshs. 8.5 million and motor cycles at a total cost of Kshs. 2.1 million. These, together with the other recurrent expenditure items under Agriculture Sector give a total proposal of Kshs. 265,596,969 as recurrent budget.

Mr. Speaker, Sir, while considering the proposed budget estimates and during the public participation exercise, the Committee noted that there were considerable complaints on the poor service delivery in the agriculture

department, especially on tractor hire services and timely distribution of seeds and fertilizers. In addition, the fishing industry needs to be supported to enhance revenue collection along the beaches. In this regard, the Committee thus recommends that clear policies be put in place to guide the allocation and distribution of tractors, seeds and fertilizers and in the Medium Term.

This Committee therefore recommends that together with other policy development requirements, Kshs. 1.99 million should be allocated under recurrent budget for the policy development. Regarding the fishing industry, this Committee recommends that the County should plan to establish a fish factory as well as improve the storage facilities within the County.

Mr. Speaker, Sir, during public participation, there were concerns of lack of irrigation projects in the budget and some people felt that poultry incubators should be managed at the sub- County level and not Ward level for a start. In view of this, the Committee recommends that the Executive arm should move with speed to commission the 9 irrigation sites that were constructed in the financial year 2015/2016 before any allocation is directed to new irrigation sites while on poultry incubators, the Committee recommends that they should be purchased for all the wards to uphold the spirit of devolution.

10. Roads, Public Works and Transport Sector

Rehabilitation and maintenance of roads

Mr. Speaker, Sir, one of the foundations on which the County Government is anchoring its development agenda on, is improvement and expansion

of transport and development of ICT. Over the medium term, the County Government aims to construct, rehabilitate, maintain and improve conditions of road in order to have an effective, efficient and secure road network. The County Government also plans to step up the development and implementation of county policies and guidelines for transport safety. It plans to continue conducting road safety and awareness programmes for an efficient, effective and safe transport system.

In view of the above priority area, the County Government has proposed to allocate Kshs. 549.6 million to the construction and maintenance of roads and bridges within the wards across the County. The Government similarly proposes that Kshs. 10 million be allocated for mechanical transport fund which will also take care of the machineries received by the County from the National Government. A further Kshs. 4.5 million has been proposed for the purchase of fire engine equipment.

In conclusion Mr. Speaker, Sir, the County Government proposes Kshs. 20 million be provided for contingency funds for roads.

Mr. Speaker, Sir, several County Government houses which would otherwise be put to use for various activities have remained incomplete since the inception of the new constitutional dispensation. To ensure that such assets are not let to waste, this Committee recommends that Kshs. 21 million be allocated towards completion of Government buildings including the offices at Bondo Town which may be used to house the County Public Service Board. Additional Kshs. 21 million should be allocated for the completion of the ATC

building to be used by the Agriculture department.

In conclusion, this Committee recommends that the Kshs. 4.5 million for the purchase of fire engine equipment should be budgeted for under recurrent. The mechanical repairs and maintenance should also be renamed mechanical transport fund.

Hon. Speaker: Hon. Chairman, would you allow the Speaker to make some communication.

Hon. Members, under Standing Order No. 27, our House should be adjourning at 6:30 p.m. and an extension should ensue if directed by the Speaker for convenience of the House or if a Motion is moved thirty minutes before the interruption of normal sitting hours. In consideration of an earlier interruption by the Deputy Speaker in the afternoon and also the business that we have now, I want to direct that we extend our sitting until when we finish. Unless there is an objection. Proceed, Hon. Odinga.

(Applause)

Hon. Odinga: Thank you, Mr. Speaker, Sir.

Street-lighting

Mr. Speaker, Sir, in order to provide secure business environment and extend business hours, the County Government reported to have installed 140 solar lights in urban areas and markets. Over the Medium Term, it intends to step up provision of solar powered street lights. It proposed to install 400 units of solar lights and maintain the 150 already installed.

Mr. Speaker Sir, during the financial year 2015/2016, the County had allocated Kshs. 44 million for installation

of solar lights. Furthermore, the National Government has put in place a programme which will see lighting of various towns/centres within the County. In view of the above, this Government proposes that only Kshs. 10 million be allocated towards solar street lights.

Mr. Speaker, Sir, over the last three years, the County has faced cases of under-budgeting on projects, especially the roads. To some extent, the under-budgeting has been caused by inadequate feasibility study on the County roads. In view of this, the Committee recommends that the County Government should give special attention on the feasibility study on the roads to be done within the County.

11. ICT, Tourism and Wildlife Sector

Reducing the cost of doing business through ICT

Mr. Speaker, Sir, since access to ICT is critical for the county's productivity and competitiveness, the County Government is committing to investing resources as well as providing conducive environment for the ICT sector to thrive. The County Government has put in place initiatives such as; strengthening ICT platform to support tourism; and ICT infrastructure development.

Mr. Speaker, Sir, to actualize the above dream, the County Government has proposed that Kshs. 10 million be allocated for establishment of County Data Centre for provision of data both for Assembly and Executive. Additionally; Kshs. 18 million shall be allocated towards provision of internet services to all county offices; while Kshs. 4 million shall be allocated to the purchase of computer software (Windows Operating System and Microsoft Office suite & antivirus).

Mr. Speaker, Sir, ICT is an enabler for economic growth because of its crosscutting nature thus affects all sectors. In a bid to address the digital divide characterized by highly unequal access to and use of ICT in the County, it is important to emphasize the need for the County Government to establish information centres and ICT training institutions at the ward level. Capacity building is important if the society is to accept, embrace and use ICT. Given the limited resources available, this Committee recommends that the allocation of data center be reduced to Kshs. 8 million.

Tourism development

Mr. Speaker, Sir, the County Government has proposed to continue promoting & developing tourism and conservation of heritage. It will facilitate tourism promotion and marketing to attract arrivals and tourism revenue. It will position Siaya as a premier tourism destination as well as re-organize the tourism sector through development of tourism sites, county branding, develop and equip new cultural centres and promote wildlife conservation activities.

Mr. Speaker, Sir, in view of the above programmes, the County Government has proposed that Kshs. 3.99 million be allocated towards the development of Got Ramogi. To effectively carry out the annual tourism, Luo cultural festivals and promotion of culture and heritage, the County Government proposes that Kshs. 17 million be allocated to fund the following activities; the Annual Piny Luo to be held in Homa Bay in the 2016, Got Ramogi cultural festival (pilgrimage, magical tourism expo, Sitatunga annual boat race and Kababa Rugby Sevens. The

Government also proposes that Kshs. 5 million and Kshs. 3 million be allocated for Miss Tourism Kenya and Tourism marketing and promotion respectively.

Mr. Speaker, Sir, the importance of tourism development cannot be gainsaid. Achieving sustainable tourism is a continuous process and it requires constant monitoring of impacts, introducing necessary preventive and/or corrective measures whenever necessary. The Committee thus recommends that the management of Got Ramogi tourism site should not be left to the locals. Instead, a County Culture & Tourism Management Board should be formed to manage the tourism site and possibly develop a tourist circuit with other attractions like Ndanu Falls, Usenge Hills, the Usenge 'Figure 7' stone, Asembo's Gunda Okiro (Gunda Lee) and Odera Akang'o shrine.

Mr. Speaker, Sir, traditional celebrations are some of the core aspects of any culture. Traditional celebrations are an excellent opportunity for intercultural exchange and understanding. It is against this backdrop that the Committee recommends that Migwena cultural events should be included in the activities targeted with the Annual tourism, Luo Cultural Festivals and promotion of culture and heritage.

Mr. Speaker, Sir, in view of the fact that celebrating traditions grounds one in their own culture while adapting to new ones, the Committee further recommends that a cultural center should be created in every Sub-County. This will be a great step in helping the County maintain its own cultural traditions.

Mr. Speaker, Sir, in spite of major strides, people with disabilities remain highly stigmatized and segregated. The Siaya County Miss Tourism events have

for quite a long time not attracted the participation of persons with disabilities. In a bid to curb this, the Budget and Appropriations Committee, recommends that future Miss Tourism activities should be tailor-made to cater for the interests of the disabled. This will not only mainstream these events but also help in increasing the level of glamour and public participation; in turn increasing the visibility of such events.

In conclusion, Mr. Speaker, Sir, and to conform to the acceptable budget classification, this Committee recommends that Tourism promotion & marketing; tourism events; and annual tourism, Luo cultural festivals and promotion of culture and heritage should be budgeted for under recurrent expenditure.

COMMITTEE GENERAL RECOMMENDATIONS

1. Mr. Speaker Sir, the local revenue for the last three years has been very low and alarming. The County wage bill is also very high and this threatens the sustainability of the County development. In view of the above, this Committee recommends that the local revenue projection be enhanced to Kshs. 270 million and to achieve this, the County should come up with measures including automation of revenue collection, reduction of the wage bill and establishing of investment opportunities to increase the local revenue collection.
2. Mr. Speaker, Sir, the implementation of projects at the Ward level has equally been very poor. As the Committee went round the Wards during the public hearing meetings, it learnt that works on some projects for the FY 2015/2016 have not been commenced, some projects for FYs 2013/2014 and 2014/2015 have not been completed while most projects completed, especially roads are poorly done thus the public is not getting any benefit. The Project Management Committees are also not facilitated to effectively execute their roles. Mr. Speaker, Sir, Members will remember that this House had resolved that the County Executive submits the development projects implementation status report for the last three years. However, up to date, this has not been done. This Committee therefore recommends that this report be done within 14 days.
3. Mr. Speaker, Sir, during the public hearing meetings, there was a concern on the management of sports funds earlier allocated for the activities across the County. This may have negatively affected the allocations across the Wards. This Committee recommends that the Sports Department should consider the provisions of the National policies on youth and sports and consider domestication of the legislation. This will help improve sports management within the County.
4. Mr. Speaker, Sir, while considering the proposed budget estimates, the Committee learnt that the allocation of free maternity health care to the facilities is normally biased and not pegged on the

2016 SIAYA COUNTY ASSEMBLY DEBATES

number of deliveries done which is affecting service delivery in most facilities due to lack of funds.

5. Mr. Speaker, Sir, as we are aware that the financial year 2015/2016 ends today, we are therefore recommending that the House adopts this report with amendments so as to incorporate such projects as shall require roll-over.

Thank you, Mr. Speaker,
Sir.

(Applause)

(Question proposed)

Hon. Speaker: Yes, Hon. Oriaro!

Hon. Oriaro: Thank you, the wise Hon. Chair of this August House. I am on my feet to give the position of the Central Alego Ward people that I represent. I want to remark preliminarily, that the sound consideration of the 2016/2017 program based Budget of the County Government of Siaya and indeed the tenability of the adoption of the Report shall act as a quantum way forward in the lubrication and indeed greasing of the governance apparatus of this financial year.

What I like and has pleased me most is that variously it has been underscored that the public, when the Committee was going round, really had genuine concerns and these ones were recorded in the 30 Wards by audio and the minutes are there. I want to say that arising therefrom is subsequently the passage of the Appropriation Bill. So by soundly considering this Report and ostensibly seeing its passage, shall lead us smoothly to see the adoption of the Appropriation Law.

I have got few concerns because the last remarks by the Hon. Chair, as he

was doing his Motion was that we do adopt it with amendment but that which is referred to as an amendment is already past tense. We live in the present; he has vividly remarked that after this day is when we shall know that which was not achieved in as far as implementation of the previous projects is concerned.

I have three areas I want to talk about. One, in the Ward hearing, public participation for Central Alego, it was made crystal clear that even though we see the uplifting of the Cooperative Sector, the sub counties already having Cooperative Societies shall have a revolving fund. The whole public of Central Alego was clear and it was minuted, that for us to arrive at the Cooperatives, it is a huge task and that is even why one of the functions of the County Government is civic awareness and capacity building so that our small self-help groups move forward. Self-help groups are within the functions of the county Government, that's why we have the social department.

The whole public of Central Alego had said that if we go for Cooperatives and they should lack in Central Alego, it would mean utter segregation for them. I want to underscore this on the Floor so that even if we pass it with amendment, maybe in future that one can be considered the one key area of self-help groups which is our function.

In Alego Usonga alone, the registered ones are 3,000 and there is annual renewal by Kshs. 2,000. That means from Central Alego alone; I don't want to talk about others, annually the County receives Kshs.6 million. That means this is a key sector in even contributing towards revenue but incidentally, if we go to the revenue on page 7, the revenue base as to when

forming the annual estimates, that one is not captured. The Kshs. 6 million for Alego Usonga times the other sub counties. You can see that which would have easily been tapped is even far much ahead of what we are looking for elsewhere. This is an area of concern.

Lastly, in the Yala Swamp Report, it was crystal clear that Dominion Farms is reaping a lot from the tourism sector from charges and it was objectively reported that that revenue sector this time round has to go to the County Government. That's why we shall be having finance laws, but this one is not captured. That is my other concern.

In page 1, the departmental spending on programs this is why the area of amendment has to be underscored. We talk of program based budgets; that means we talk of figures and we talk of those programs. These programs; their particulate nature, their specifics must be underscored. On behalf of the Central Alego Ward public, even though the Report talks of the figures, the sovereign socio- financial nomenclature is wanting. The naming of projects should be funded, that one too is wanting. I believe this one also cuts across other Wards.

Some of the projects like Sports is not captured in the Central Alego allocation. This is wanting, bearing in mind that in the supplementary Budget of 2015/2016, my area was affected and to resolve it was in vain. Seeing the Central Alego public loose over Kshs. 12 million in roads construction, so when we talk about amendment, I want to be on record that it should not just be on a tether to politics, ways of convincing this House so that we easily become amenable to the presentation, the Motion of the Chair.

We should talk of real amendments so that specific projects that are the nomenclatures are associated with the finances. This one must be really underscored. I support it partially hoping that those amendments shall ensue and I propose Mr. Chair, that I would move a Motion because it is not only that we adopt it with amendment. I would wish, Mr. Speaker, Sir, to move Motion of that amendment straight away so that as we contribute, our contribution is in consonance with that amendment.

Hon. Speaker: Hon. Oriaro, the Chair is already in receipt of your amendment, not only you but for all the others. Don't worry; the amendment will be factored in.

Hon. Oriaro: ...but Mr. Speaker, they were received informally; it is not on record that they have been received on the Floor.

Hon. Speaker: Hon. Oriaro, you know how amendments are brought. Do you want me to ask you to enlighten us on how amendments are done?

Hon. Oriaro: Mr Speaker, Sir, it is all about the enhancement of the positional rank of the public ubiquity in County Governance. Matters of public participation remain truly by the letter and the spirit of the Constitution such that it is not negated by mistake because when liberty is taken away by default, it can never be recovered.

Hon. Speaker: Hon. Oriaro, those amendments will not be admitted for now because I already have them. Yes, Hon. Muhula.

Hon. Muhulah: Thank you, Mr Speaker, Sir. I wish to remind Hon. Oriaro that Article 131 of the Public Finance Management Act gives power to this House to pass the Budget with or without

2016 SIAYA COUNTY ASSEMBLY DEBATES

amendment. We don't need a Motion for that.

Hon. Oriaro: Hon. Chair, even the supplementary budget 2015/2016 I am talking about was passed with amendment.

Hon. Speaker: Order!

Hon. Oriaro: --- but that amendment was never entrenched much to the chagrin of the public I represent.

Hon. Speaker: Hon. Oriaro, I will read to you the consequences of persistently refusing to heed to the advice the Chair. It is not long ago before an MP representing this region, when asked to abide by the orders of the Speaker, made a sub county suffer for over 6 months without representation. Thank you. Hon. Muhula, proceed.

(Applause)

Hon. Muhulah: Thank you, Mr Speaker. This is the only House that is mandated to give authority of the expenditure to the County Government of Siaya. One, through Article 223, on Supplementary Appropriation or Article 224 on Appropriation Bill.

One thing, it is not just passing the Budget that we are going to do today, today we want to remind the County Government that we require openness in the Budget making process. We require diligence in the implementation of the Budget and we require accountability in the reporting of the performance of the Budget.

Just a few minutes ago, the wrangle that was here from the Hon. Members is that found in Article 196 which mandates the County Government to go to the public for the public participation. We serve constituencies and these constituencies we

must adhere to their advice or requests in the Budget making process.

The bone of contention comes that in the Budget that we are closing today 2015/2016, most of the people from our respective Wards after going to 30 wards, gave their views of the projects that were supposed to have been done. Behind our back people went and changed these projects and these projects never made to term.

In a few hours to come, we shall be crossing from the financial year 2015/2016 to 2016/2017. The Fiscal performance of this County Government, historically this is the fourth year; we are yet to pass another Appropriation Bill. We are telling the Government that passing an Appropriation or passing the Budget is a different thing but committing themselves to the Bill that has been passed here guiding them on the program Budget, Mr. Speaker, is an authority that you have given them. That we are not going to sit around looking at them derailing the intentions of this House and the public.

Mr. Speaker, Sir, and today we have an average of about Kshs. 480 million, of projects that were done outside the Budget. That one is an illegality that this House cannot continue rubberstamping. It's of this view that we would want, through your Chair, Mr. Speaker, that the PAC of these people and get the details of how these projects were done outside the Budget cage for we have to stop this one, Mr. Speaker.

Mr. Speaker, Sir, because of time I might not belabour much on it but allow other Hon. Members time to make their contributions but I want to thank the other Hon. Members who took and committed their time for the very hard work and commitment they did. I beg to support.

Hon. Speaker: Should I call the Mover to reply on the contributions? The Mover, will you reply!

Hon. Odinga: Thank you, Mr. Speaker, Sir. I want to first of all appreciate my colleagues because, Mr. Speaker, Sir, today we are going beyond our normal time to discuss the Budget of Siaya County 2016/2017. Allow me to thank the members of the public.

(Loud consultations)

Hon. Speaker: Hon. Members, who are consulting loudly, did you want to contribute? I don't want to gag Members. Yes, Hon. Chief Whip.

Hon. Gare: Thank you, Mr. Speaker, Sir, allow me to thank the Committee of Budget for bringing this Report here. One, we must accept the fact that they have worked day and night to bring this Report, we saw them in our Wards and I think we need to thank them for that.

Two, I want to say that it is important to note that passing the Budget, for sure we are doing it but the implementation is upon the Executive to implement these projects in the Wards. As I am talking today here, in my Ward of West Sakwa, half of the projects for 2015/2016 have not been implemented. Today we are passing another one, it is not implemented, what are we doing? We are passing a Budget for the projects to be done on the ground and they are not done.

Mr. Speaker, Sir, you remember the last financial year, this one that is ending now. The Executive decided to give 16 contractors to work on these projects. It has failed because half of the projects have not been implemented while in this County we were talking of

devolving the resources to our people. We have contractors on the ground who we would have given the job and finished these things in time. Today we are passing another Budget, half of it not done. What are we doing members?

Three, I want to say that for sure it is important and we have to accept the fact that CHVs need to be given some stipend and we are thankful to the Executive for improving their stipend from Kshs. 2,000 to Kshs. 3,000 for their motivation.

There is also a serious issue of solar lights which is coming up again here. Some solar lights were installed in our Wards. To date they are not functioning. When you go down on the ground, you are told it is you who gave faulty lights. We are now improving and we are saying we are adding them more money for solar lights. What about the maintenance of these solar lights? They are installed, not maintained and people are in darkness.

What I want to say about ICT is that if for sure this County wants to move ahead, we should look towards automation of the revenue so that we can collect our revenue. We are saying that today we want Kshs. 270 million, are we going to collect it if we are doing it manually? The Executive should look into this so that we go to the automaton of the revenue collection.

I want to say, in the Ward, there were issues and it's true that we are saying we are passing this Budget, with the amendments and I want to request that we pass it since I am one of the people who were affected. The other time it was this way; there were issues and when we passed the supplementary Budget here, my projects were never done.

I followed the Executive as if I was requesting for milk from my children. It

was not done and today we are passing this Budget with amendment. We want to request through the Budget Committee, let us come back and look at it and before the County Assembly takes this Report to the Executive, let us study it and see if these amendments we are going to pass will be in that document. Otherwise, I thank the Budget Committee and I want to propose that we pass it. Thank you.

Hon. Speaker: Hon. Deputy Speaker!

Hon. Adera: Thank you, Mr Speaker, Sir; it would not augur well if this Assembly does not talk about or debate this Budget. I know time is up but what we are debating today is very important because it will transform the lives of millions of residents of Siaya County. Therefore, I want to urge my fellow colleagues that even though it is late, let us have time for this Report from the Budget Committee.

Personally, I am happy with the proposals that I have seen in this Budget. It is an improvement from what we have had previously. I have seen that, initially we used to have allocations for bursaries and each Ward would have a unique figure, but this time round I can see that in bursary allocation, we have a uniform figure of Kshs. 2.5 million.

I think the proposal is not all that good, because the Wards are not the same in size; some are large and even in terms of population, there are some Wards that are densely populated while others are sparsely populated and I think putting similar figures for all Wards was a mistake that the Executive did not notice. I wish to inform them that in future when they are doing this, it will be important to consider the geographical area covered by a Ward and population.

In the Report, I have seen that there is a proposal to hire instructors for newly constructed Youth Polytechnics. I am wondering why the Government of Siaya thought about the Youth Polytechnics that have been in existence before devolution came in. Are they going to be left out? This is one area that the Executive also should look at. We have Youth Polytechnics all over. Even in my Ward, we have Youth Polytechnics which have been in existence for many years.

There is a proposal that we have Social Protection Fund and I think this is a good idea which the Executive has come up with. We have old men and women who the Government should take care of and this is a good idea.

On water, there was a proposal that we shall be tapping water from Elgon Towers and Cherangani to improve water services. I have not heard any mention of Yenda dam in Ukwala Ward and even Banda dam in West Ugenya Ward yet we have water projects in those two dams that if put in good use for the residents of those areas, it can be of great benefit.

I think the Government should come in and look at those two dams because in the Sub County of Ugenya, the biggest problem that we have is water and if we are passing budgets and nobody is mentioning the issue of water in Ugenya Sub County, I think as representatives from those areas, we are very much concerned and we want to urge the Executive to relook at the Budget so that now that we have a window of making changes, I think this one the Executive should give some input so that those two projects can be given some allocations so that the people of Ugenya Sub County can have the benefit of drinking clean water. With those few remarks, I support.

Hon. Speaker: Hon. Members, I want to urge you that if we are ready to debate this Report then we do not leave this House. Because it will be an exercise in futility if we debate this Report and at the time of taking the vote you are not here or we don't have quorum. Therefore, I shall direct that Members don't leave. Yes, Hon. Andiego!

Hon. Andiego: Thank you very much, Mr. Speaker, Sir. First, allow me to thank the Committee on Budget. We know and have seen how tirelessly they have worked day and night towards bringing what we have today. We are also aware that it is through their effort that as representatives of Wards we have Kshs. 30 million in each Ward. We thank you so much for this. I wanted to talk about the Local Revenue which I see amounts to Kshs. 270 million. I normally say that this is a very big joke for our County and I would have wished that the Committee proposed twice what we have here. I don't understand why Siaya County, whatever is being termed as our revenue for the year becomes Kshs. 270 million, yet what we collected during the Local Authority days, was much higher than this. I urge that something be done because we can't run a County without collecting revenue and we know that there is somebody sleeping on their job.

I come from the shores of the Lake and I know a lot about fish. When I look at the Fish Cess Fees as proposed, it is too little because we know that our County collects around 208,000 tons in a year and we are charged Kshs. 1 shilling per kilo. If we calculate this, it comes to Kshs. 208 million, just from the fish which is being processed from the factory. If you go to other Counties, you find that they use automated machines to collect revenue but

here in Siaya, you find people seated without machines. So, something should be done about that.

There is a lot of money here indicated for the Executive, for example, the bursary which is Kshs. 20 million. A lot of money has been left with the Executive but there is no policy of how this money is going to be used. Somebody without a policy may decide to use that money whenever they feel like. We are asking that the policy be formulated so that we know how other places will benefit from this money. I am requesting that we need a policy, e.g. there is Kshs. 6.9 million and Kshs. 48 million, a policy should be done for them.

Another thing that I wanted to talk about is drugs for our health facilities. A lot of money has been placed for drugs but the way those drugs are being monitored is so bad. Drugs are procured using a lot of money and the following day when you go to those health facilities, there are no drugs for our people. Something should be done towards that so that ---it is our money and the lives of our people. It is wrong for drugs to come today and the same night they find their way somewhere and we are left without drugs. Otherwise, Mr. Speaker, I support with amendments as proposed, thank you.

Hon. Speaker: Hon. Owii!

Hon. Owii: Thank you very much, Mr. Speaker, Sir. Equally I will be very brief. I have three issues: One, is to thank and commend the Committee on Budget for the good work that they have done, it is only that they are trying to handle very difficult characters in the name of the Executive. If at all they were people who could listen and do their work well, then we would not have been in this position we are in today.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Two, is on the projects that are supposed to be rolled over. Our absorption rate is quite low, it goes to 50% when it comes to development and for recurrent it goes up to 97%. If you roll over the projects coming back from 2013/2014, 2014/2015, 2015/2016, there is a lot of money, close to Kshs. 1.6 billion that is supposed to be rolled over.

I want to put a request that in as much as we are saying we pass this Budget with an amendment, rolling over is not an amendment

(Applause)

We need to include it and it falls back to the Budget Report that is going to Nairobi. Other amendments can come much later which of course will be different from rolling over of our projects. In my Ward, close to 50% of my projects were not actually undertaken at all. Now if I am passing this one, does it do any business to my Ward? NO! When we shall be sending our Report to Nairobi, that Report should include all projects that are supposed to be rolled over in each and every Ward. If it cannot be done, then I am not part of passing this Budget.

Number three, I want to request very kindly, the Committee on Implementation, which is chaired by one able debater here, Hon. Oriaro. I want Hon. Oriaro's Committee to step up their effort because it appears that the Executive is sleeping on their job. Why don't you make a wakeup call to these people so that we see a change? We cannot talk and colour this thing 'programme based Budget'- what 'programme based!' which is not actually productive at all. This is pure literature, the other day somebody said that. I want to request Hon. Oriaro,

with all that energy that you have, to come up and do their work so that when we are closing any financial year, the absorption rate goes up and if anything, we should only remain with a figure like Kshs. 200 million or a Kshs. 100 million to spend! I said I was going to be very brief; it was just like a mini skirt, thank you very much.

(Laughter)

Hon. Okuku: Thank you, Mr. Speaker. Allow me to appreciate what the Committee has done; they have worked tirelessly day and night. Allow me also to appreciate your wisdom that you have ruled that we have two Sittings; the Afternoon Sitting and the Evening Sitting and I think we are soon signing two Sittings.

(Laughter)

Hon. Speaker: Point noted Hon. Elisha, you are out of order. Proceed!

(Laughter)

Hon. Okuku: Thank you, Mr. Speaker, again. Allow me to appreciate that this Hon. House of men and women has really tried to highlight the problems of the citizens of Siaya. Even the press hovering around Siaya day and night has also tried to make sure that the people of Siaya get a solution and success to their problems. Allow me to appreciate the press.

Initially Radio Nam Lolwe and Gulf Radio did a very good work for this Assembly that needed to be captured in this budget yet it is not here. I think we should even add stations like Radio Ramogi, Radio Lake Victoria and others

2016 SIAYA COUNTY ASSEMBLY DEBATES

stations so that they can highlight our debates and air our problems so that we can attract as many donors as possible. Even the funds we are using going abroad looking for donors if pumped to the local radio stations, I think Siaya's problems will be dealt with.

The upholding of the budget is my main problem and worry. You find that in the Budget of Financial Year 2015/2016, this House approved the senior citizens transfer fund and yet it has not been actualized by the Executive. The Executive team has been implementing projects that were never budgeted for and not approved by this Assembly. We should stand firm as a House and if anything, send away some of these CECs from office.

Everybody knows that money comes from Nairobi and that's why they sit in the offices drinking tea and that's why our tea goes to Kshs.36 million. They don't walk around looking for money or even do proper mapping of revenue collection areas. If we are not serious as an Assembly, then the people of Siaya will continue suffering because even the little that has come from Nairobi is being abused.

Allow me to rest my case and request the Sergeant-at-Arms to give us the attendance sheet so that we can sign.

(Laughter)

(Applause)

Hon. Speaker: Hon. Elisha you are out of Order!

(Laughter)

Yes, Member for South East Alego!

Hon. Osuri: Mr. Speaker, Sir, thank you for giving me this time and I would want to be very brief. The major concern of this Hon. House is the untimely implementation of projects that are passed within a financial year. We are very much concerned of Ward projects that were budgeted for in the FY 2013/2014 and have been done half way while some have not even taken off. I brought a Statement to this House regarding projects in my Ward and the Implementation Committee went round and found that nothing much was happening on the ground. The report was brought to this House and up to date, nothing has been implemented.

I want to go straight to the Trade Department. In the report it is indicated that Kshs.10 million has been allocated for the installation of solar lights. In some of the Wards where these solar lights have been mounted, most of them are not functioning. There are no solar lights in modern markets like Ng'iya and Bar Olengo, yet if you go to my budget, I allocated Kshs.12 million to take care of them in the FY2013/2014.

I am for the construction of a bus park but the problem is how will they control the vehicles? If you come to Siaya, you will see pseudo bus parks instead of the ones that were constructed by the old local authorities. If they cannot even control the buses there and collect revenue from them, how will they wreck in money from them? If you go to Eurostyle and Bondo junction, you will find buses parking there yet it's not a bus park and they cannot control them.

I want to end by saying something about the roads. We are after quantity and not quality. In fact, an allocation of about Kshs.82 million for road maintenance levy fund has been proposed in this budget. We

would wish to know how it is going to be evenly distributed within the Wards taking note that some Wards like South East Alego are larger than others. I would wish to know how this money is going to be allocated in maintaining roads in South East Alego Ward. Otherwise, I would like to thank the Committee and I support. Thank you.

Hon. Ochieng: Thank you, Mr. Speaker, Sir. As you know, I have been very busy. First I would want to thank the Budget Committee for the Report. You all know very well that when I speak, the fishermen community also speaks. This County Government has considered all the departments within Siaya but it's not really clear what the fishermen will get. I don't see how much is allocated for the items listed here and I am worried that they might be given a blank cheque whereby it is indicated that it will be considered while the allocation is scaled down.

Otherwise, I would like to request the able Chair of this Committee to consult with the Executive to see to it that it is considered as we are passing this budget with amendments. The amount allocated to the fisher folks for the subsidized items should also be looked into. That was my point. I rest my case. Thank you.

Hon. Asewe: Mr. Speaker, I would like to commend the Committee for the good work but, there is only one area that I need to highlight. In the 2013/2014 budget, there was nothing factored for PWDs. Even the little that was factored in 2015/2016 has not been implemented. I am part of the Members that would like this budget to pass with amendments, but the concern is that even if we pass it, the implementation will always be a problem. Why don't we address this issue of implementation first? We do a number of

public participation meetings and we gather information from the public but when it comes to implementation, the Executive does as they wish. This is a matter of concern. Otherwise, I support the document with the amendments that have been highlighted. Thank you.

Hon. Speaker: Hon. Members, be reminded that today is the deadline of passing the Appropriation Bill and we are not yet there. So let us try being repetitive. Yes, Hon. Ngure.

Hon. Ngure: Thank you, Mr. Speaker, Sir. Just so that we are not seen to be unappreciative of the work done by this Committee, as women, youths and as PWDs' of this County, I want to appreciate that this time round an allocation has been made to take care of a number of activities from these three groups. In the past, there was nothing we could use to reach out to our women, youths and PWDs' so that they could also come to the level of other members of the society in terms of awareness and training.

So, I just wanted to make it clear that as members of this particular group, we appreciate that this time round there has been an inclusion of these areas. Otherwise, we thank the Committee for work well done.

Hon. Awino: Thank you, Mr. Speaker, Sir. I just want to appreciate the work done. I want to briefly say something in regards to agriculture especially the provision of seeds and fertilizers. This is a good idea and will only be useful to our farmers if it is procured in good time. Most of the time, they are brought after April and they become useless and farmers are forced to buy from local shops that sell at high prices. Therefore, I hope that this time round they will be procured and

brought in good time so that our farmers can prepare in advance.

On revenue collection, I think there is need for civic education on revenue collection because most of our people don't realize that when you pay taxes, then the County is also able to provide quality services to its residents. They prefer not to pay taxes thinking that it's the right thing to do and that is why we read about places not having toilets and so many other services that they ought to have been provided with. Therefore, as leaders, we need to show the people the importance of paying taxes so that the County Government does not lack funds to provide the necessary. Otherwise, I support the report with amendments.

Hon. Speaker: May the Mover reply.

Hon. Odinga: Thank you. I started earlier by thanking my colleagues for their contribution towards this 2016/2017 budget and I also want to thank the members of the public for their contribution. Actually, this time round there was a good turnout. This shows that there was proper public awareness out there as the Constitution requires.

There are two issues I would like to make clarifications on so that we all leave here knowing what is in the budget. On the solar lights, there is an allocation of Kshs. 10 million and when we were engaging with the Executive, they were saying that this money will be used to balance off the areas that didn't get the lights. On the same note, they are also saying that under recurrent expenditure, there is a provision for repairs and maintenance of these solar lights. They plan to pull out the batteries that were installed underground and put them somewhere above the ground.

Secondly, there is the issue of revenue and it was also a concern to us. In fact, a member of public confronted us and said that Kshs.200 million for the County Government of Siaya is a big joke. We engaged both the Executive and the Office of the Controller of Budget and in fact, the Office of the Controller of Budget wanted us to budget with Kshs.160 million because we have consistently not been going beyond Kshs.150 million. But he also said that there are other revenue resources which have been identified and so we need to budget with something more than last financial year.

Lastly, there is an issue that has cropped up on why do we budgets and yet these things are never implemented. Any Government, both at the National and County level, is required to budget annually. I want to give an example of other programmes which were also proposed by the national government like the laptop for the standard one pupils. This was a national government project but upto now I don't think it has gone to all the primary schools in the country. I don't want to belabour on that but I just want to encourage---

Hon. Owii: Mr. Speaker, Sir...

Hon. Speaker: Is it a point of order?

Hon. Owii: Yes. Mr. Speaker, Sir, I don't think it's fair for the Mover to bring an issue of the national government's failure by trying to say that we should copy from them...

Hon. Speaker: Is that a point of Order?

Hon. Owii: No, I said a point of information.

Hon. Speaker: You are out of order. Just take your seat.

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Hon. Owii took his seat)

The Mover, will you continue replying.

Hon. Odinga: Mr. Speaker, Sir, I said the government would budget for a programme but at the end of the financial year it might not be done due to one or two reasons. Shortfall in revenue may be one of the reasons.

Lastly, Mr. Speaker, Sir, we all know that for the government to operate, it must have a budget. Siaya County Assembly did not become number two for nothing; we were number two and we are aiming to be number one because of the quality of our debates. I wish to ask my colleagues to pass this document with amendments because this will give us room to correct any anomalies especially on Ward projects. Thank you, Mr. Speaker, Sir. I beg to move.

(Question put and agreed to)

(Applause)

BILL

SIAYA COUNTY
APPROPRIATION BILL, 2016
(COUNTY ASSEMBLY BILL
NO. 5 OF 2016)
First Reading

BILL

Hon. Odinga: Mr. Speaker, Sir, having passed our budget with amendments, as an Assembly, we ought to authorise the spending of the budget by both the Executive and the Assembly. That means we need to pass the Appropriation Bill and I beg to move that the Siaya County Appropriation Bill, 2016 be read a second time. I call upon the Hon. Member

for Siaya Township Ward, Hon. Otare, to second.

Hon. Otare: Seconded.

(Question proposed)

(Question put and agreed to)

(Bill read for a second time)

**COMMITTEE OF THE
WHOLE HOUSE**

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

IN THE COMMITTEE

*[The Chairman (Hon. Adera) took
the Chair]*

*Siaya County Appropriation Bill,
2016 (County Assembly Bill No. 5 of 2016)*

(Loud consultations)

Hon. Chairperson: Hon.

Members, we are now in the Committee of the Whole House and we want to look at the Appropriation Bill clause by clause. I urge you not to leave the House because what we are about to deal with is very important and all of us should participate. We don't want quorum hitches. Let's proceed.

(Clause 2)

*Question, that Clause 2 be part of
the Bill, proposed)*

*(Question, that Clause 2 be part of
the Bill, put and agreed to)*

Clause 3

*Question, that Clause 3 be part of
the Bill, proposed)*

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Question, that Clause 3 be part of the Bill, put and agreed to)

Schedule 1

(Question, that Schedule 1 be part of the Bill, proposed)

Hon. Abayo: Mr. Chairperson, I have an amendment on Schedule One.

Hon. Chairperson: What is your amendment?

Hon. Abayo: On Vote No. R001, the amount required in the year ending 30th June, 2017, for recurrent, salaries and expenses of the County Assembly, has been stated there as Kshs.559,914,472. That's an anomaly and it needs to be corrected to read - Kshs.599, 914,472. I wish to ask Hon. Madialo to second.

Hon. Madialo: Seconded.

(Question, that Vote No. R001 be amended to read Kshs.599, 914,472, proposed)

(Question, that Vote No. R001 be amended to read Kshs.599, 914,472, put and agreed to)

(Question, that the amendment be part of the Bill, proposed)

(Question, that the amendment be part of the Bill, put and agreed to)

Schedule 2

(Question, that Schedule 2 be part of the Bill, proposed)

(Question, that Schedule 2 be part of the Bill, put and agreed to)

Title

(Question, that the Title be part of the Bill, proposed)

(Question, that the Title be part of the Bill, put and agreed to)

Clause 1

(Question, that Clause 1 be part of the Bill, proposed)

(Question, that Clause 1 be part of the Bill, put and agreed to)

Hon. Odinga: Thank you. Mr. Chairman, I beg to move that the Committee do report to the House its consideration of the Siaya County Appropriation Bill, 2016 (County Assembly Bill No.5 of 2016) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT

Siaya County Appropriation Bill,
2016 (County Assembly Bill No. 5 of
2016)

Hon. Adera: Hon. Speaker, Sir, I beg to report that the Committee of the whole House has considered the Siaya County Appropriation Bill, 2016 and approved the same with amendments.

Hon. Odinga: Mr. Speaker, Sir, I beg to move that the House do agree with the Committee in the said report.

2016 SIAYA COUNTY ASSEMBLY DEBATES

*(Question, that the House do agree
with the Committee of the whole House in
the said report proposed)*

*(Question, that the House do agree
with the Committee of the whole House in
the said report put and agreed to)*

(Applause)

Hon. Odinga: Mr. Speaker, Sir, I beg to move that the Siaya County Appropriation Bill, 2016 be now read a third time. I call upon Hon. Osuri to second.

Hon. Osuri: Seconded.

(Question proposed)

(Question put and agreed to)

(Bill read a third time)

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members, can we be upstanding for adjournment.

*(All Hon. Members stood up in their
places)*

Hon. Members, there being no other business, this House adjourns until Tuesday, 5th July, 2016 at 2:30 p.m. in the Chambers.

The House rose at 7.42 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 5TH JULY, 2016

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

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

PRAYER

**QUORUM CALL AT THE
COMMENCEMENT OF SITTING**

Hon. Speaker: Can the Quorum Bell be rung for about 10 minutes.

(The Quorum Bell was rung)

(Loud consultations)

(Quorum confirmed)

PAPER

REPORT OF THE COMMITTEE ON SELECTION
ON NOMINATION OF A MEMBER TO SELECT
COMMITTEES

Hon. Otieno: Thank you, Mr. Speaker, Sir. Allow me to lay the following Paper on the Table of the House:-

Report of the Committee on Selection
on nomination of a Member to Select
Committees.

*(Hon. Otieno laid the document on the
Table)*

PAPER

REPORT OF THE COMMITTEE ON
ROADS, PUBLIC WORKS, TRANSPORT AND
COMMUNICATION ON THEIR BENCHMARKING
VISIT TO VIHIGA AND KAKAMEGA COUNTIES

Hon. Omar: Mr. Speaker, Sir,

allow me to also lay the following Paper:-

Report of the Committee on Roads,
Public Works, Transport and Communication
on their benchmarking visit to Vihiga and
Kakamega Counties.

*(Hon. Omar laid the document on the
Table)*

NOTICES OF MOTION

REPORT OF THE COMMITTEE ON SELECTION
ON NOMINATION OF A MEMBER TO SELECT
COMMITTEES

Hon. Otieno: Thank you, Mr. Speaker, Sir. I wish to give notice of the following Motion:-

THAT, this House adopts the
Report of the Committee on Selection on
nomination of a Member to Select
Committees laid on the Table of the House
today, Tuesday, 5th July, 2016.

REPORT OF THE COMMITTEE ON
ROADS, PUBLIC WORKS, TRANSPORT AND
COMMUNICATION ON THEIR BENCHMARKING
VISIT TO VIHIGA AND KAKAMEGA COUNTIES

Hon. Omar: Thank you, Mr. Speaker, Sir. I also wish to give notice of the following Motion:-

THAT, this House adopts the
Report of the Committee on Roads, Public
Works, Transport and Communication on their
benchmarking visit to Vihiga and Kakamega
Counties laid on the Table of the House
today, Tuesday, 5th July, 2016.

STATEMENT

Hon. Speaker: There was a Statement from Hon. Elisha Okuku, where is it? I approved it.

(The Hon. Speaker and the Clerk-at-the-Table consulted)

Make sure that Statement is in our Order Paper tomorrow. It was brought last week on Thursday but it wasn't dispensed with. So, make sure it is in tomorrow morning's Order Paper. It was about a court injunction and the office of the CEC in charge of Agriculture.

Next Order!

MOTION

REPORT OF THE COMMITTEE ON SELECTION
ON NOMINATION OF A MEMBER TO SELECT
COMMITTEES

Hon. Otieno: Mr. Speaker, Sir, the Assembly Standing Order 200(1) states that;

There shall be select Committees to be known as Sectoral Committees the Members of which shall be nominated by the Committee on Selection in consultation with Assembly parties at the commencement of every Assembly.

Standing Order 200(2) states that; A Member appointed to a Sectoral Committee at the commencement of an Assembly or at any other time during the term of the Assembly shall, unless the House otherwise resolves, serve for the term of that Assembly.

The Committee considered the request by the Majority Party for nomination of Hon. Samuel Olasi, MCA, West Uyoma Ward, to serve in Committees of this Hon. Assembly.

The Committee considered the provisions of Standing Order 162(2) and nominated the Hon. Member to the following Committees:-

1. Sectoral Committee on Health Services.
2. Sectoral Committee on Agriculture, Livestock and Fisheries.
3. Sectoral Committee on Water and Irrigation Resources.
4. Committee on Welfare.

The Committee therefore urges this House to approve the nomination of the Hon. Samuel Olasi to the mentioned Committees.

I now ask Hon. Lorna to second.

(Hon. Lorna bows to second)

Hon. Speaker: Hon. Members, I propose the question which is that:-

THE Hon. Samuel Olasi be considered for nomination to the following Committees:

- Sectoral Committee on Health Services
- Committee on Agriculture, Livestock and Fisheries
- Committee on Water, Irrigation and Resources
- Committee on Welfare

Yes, Hon. Muhulah!

Hon. Muhulah: Mr. Speaker, Sir, I stand here not to support, of course, but indeed it is almost one month plus some days, the Select Committee was supposed to have brought in this House a newly constituted Membership of different Committees. Maybe at this point, before even we support the issue of Hon. Olasi being seconded or put to these

2016 SIAYA COUNTY ASSEMBLY DEBATES

Committees, could the Committee on Selection tell us what actually is the problem and why they can't bring all these that was supposed to be constituted to this House. If the Hon. Majority Leader can explain to us that, then we shall understand the reason why the Hon. Olasi should be brought here as a person to be part of these Committees and the Committees that were supposed to be reconstituted cannot be done.

(Applause)

Hon. Speaker: Yes, Hon. Awour!

Hon. Awour: Mr. Speaker, I am on my feet, first and foremost to support the nomination of Hon. Olasi, MCA for West Uyoma to serve in these Committees. I want to thank the people of Uyoma for having elected Hon. Olasi to represent them and I want to thank you, Mr. Speaker, because two weeks ago, I was away with the Budget Committee and I saw and found your ruling in the issues that were raised here. I want to say that this is a new person, a Hon. Member who has been elected by the constituents and the best place to serve the constituents and the best way to serve is to be put in the Committees.

We should give him time to serve in these Committees, to share whatever he has outside there in these Committees. Therefore, I want to support the nomination of Hon. Olasi though I can't see his face around. I don't know whether he has made his maiden speech before this House.

(Laughter)

He would have taken this opportunity to make his maiden speech. Mr. Speaker, Sir, I thank you.

Hon. Speaker: Hon. Pamela Nguire!

Hon. Nguire: Thank you, Mr. Speaker. I also want to congratulate the Hon. Olasi for being included in these Committees. As you all know, I come from Uyoma West Ward and Hon. Olasi being my representative in that Ward, it is proper and in order that he gets in to these Committees so that he will, as has been said here, serve our Ward appropriately. So, I thank the Selection Committee for doing this with speed even if other matters of Committee reconstitution are still outstanding and I believe that that will soon be concluded. Thank you, for doing this so that Hon. Olasi can serve Uyoma West appropriately on matters which will be discussed in those Committees. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Andiego!

Hon. Andiego: Thank you, Mr. Speaker, for giving me this chance. I am also on my feet to support the selection of Hon. Olasi to these Committees. First and foremost, I want to congratulate him for being elected to represent West Uyoma. I believe it was not an easy task but he managed and he is one of us here. I want to disagree with the Hon. Member who was opposing this because of the issue of other Committees. It is important that once one has been elected and has been sworn in should be given a mandate to serve and if denied because of others, it will not be justice to deny one of us to serve.

We shall request that the other Committees which are to be reconstituted, be reconstituted but this will not stop Hon. Olasi from serving his people. We always

2016 SIAYA COUNTY ASSEMBLY DEBATES

believe that through the Committee meetings, it's where he will get to know what he is supposed to be doing in his Ward. Therefore, I also take this opportunity to welcome Hon. Olasi to the Welfare Committee where I am the Chairperson. I believe you will serve and add value to that Committee. I support, Mr. Speaker.

Hon. Oriaro: Thank you, Mr. Speaker, Sir. Indeed, today I am busily out to support the matter in question and in that spirit I want to agree with the remarks, dissenting remarks from the son to my sister, Hon. Muhulah. Indeed, the issue of slotting Members in to the Committees is a thorn in the flesh and by now it ought to have been resolved. But by the mere fact, the Order Paper today should remind us that we should be out to address the feelings of ourselves.

It would be plainly known that over 75% of our creation is water. These are sectors that are very relevant in our daily lives as we are out to represent. What we have been looking for is liquid I would say pedagogical liquid and if that one is needed and very urgently, it is in such like sectors because outside there people are lamenting. A state of entropy ensues in such like sectors, so if Hon. Olasi will provide that liquid, then Hon. Oriaro will always be out to say Amen. Mr. Speaker, Sir, I support.

Hon. Speaker: Hon. Walter, carry on!

Hon. Okello: Thank you, Mr. Speaker; I join the other Members in congratulating Hon. Olasi. On the same breath I want to thank many Members who came out and made this possible in supporting the ODM party, the largest party and the biggest movement South of Sahara to retain her seat in this House.

(Applause.)

I wish to thank very many Members, led by the Majority Leader, Hon. Kowii and so many others who crossed their borders and joined the rest of us in West Uyoma that we maintain this party.

I am going to differ a little bit with Mheshimiwa from Gem, Hon. Kawuor who suggested that the Hon. Olasi should use this opportunity to make his maiden speech. I want to submit that the Hon. Olasi should not be under any pressure whatsoever to make his maiden speech. He will make that speech at his appropriate time.

(Applause.)

We are aware of MPs who 3 or 4 years down the line are yet to utter a word in their Houses but that does not undermine their performances. Let Hon. Olasi take his time until such a time he is fully settled that he is ready to do so. Mr. Speaker, that being not the main point, my point is that I support the Motion as it were and I congratulate again the Selection Committee for making very right choices just as Hon. Oriaro has observed.

I know Hon. Olasi quite well and I have interacted with him and I know he has the right capacity and I believe that that is what Hon. Oriaro was calling liquid in his German language. I believe he has the right capacity and experience to be adding value directly to these Committees particularly the Committee of Health.

All of us are aware, whether we want to admit or not but we are aware that ever since the unfortunate demise of the previous Chair, the Health Committee has been struggling. That Committee has struggled in many ways. We have seen

2016 SIAYA COUNTY ASSEMBLY DEBATES

their Reports rejected a lot of times on the Floor of this House.

The Hon. Olasi is coming in at the right time. He is going to save...

(Loud consultations.)

Hon. Speaker: Yes, Hon. Asewe. You have a point of Order?

Hon. Asewe: Mr. Speaker is it right for the Hon. Member to allege that the Health Committee has been struggling and their Reports have been rejected several times which is not true. Is it right?

Hon. Speaker: Hon. Member of that Committee, have you been struggling?

Hon. Members of the Committee: We have not been struggling.

Hon. Speaker: Hon. Walter Okello, the Committee confirms it has not been struggling.

Hon. Okello: It may appear that they are not struggling but there are instances that they have been really hard pressed with time. Their Reports, unfortunately the Chairperson is not here, Hon. Were, but if the Members feel they have not been struggling, then I drop it.

I believe the Hon. Olasi will add value in terms of that Committee and even in Agriculture. Hon. Olasi is coming in at a time when the Fisheries sector of this County and this Country is left with a big challenge. Only yesterday we read in the papers that we have fish coming to Kenya all the way from China. I believe that with Hon. Olasi in this Committee, people of Siaya will now be able to find a solution. Having Hon. Olasi in this committee of Agriculture and Fisheries will help the people of Siaya solve the issue of people coming with fish from China. I know Hon. Olasi is capable of doing that.

Under the Committee of Water, we see the kind of drought that is facing this County. If we go to Rarieda and so many other places, it is really dry and water is a problem. Hon. Olasi coming to this Committee of Water, I believe that a solution will be found to the water shortage.

(Loud consultations.)

Finally, Mr. Speaker, Sir, on the Committee of Welfare, just a short while ago under your leadership, we had a very successful meeting here but what came out is that Members have issues with their welfare. All Members have been struggling with welfare issues...

(Laughter)

...with Hon. Olasi coming to the Committee of Welfare, I believe our struggles and our problems as Members will be sorted. So with those so many points, I support the Motion as it is. Thank you.

Hon. Speaker: Hon. Members, as you make contributions, remember we had agreed that we would want to finalize our housekeeping issues soon after this. So, just proceed but know that if you have not contributed does not mean that you don't support. Yes, Hon. Maurey.

Hon. Asewe: Thank you, Mr. Speaker, Sir; I want to add my voice on what others have said but first I congratulate Hon. Olasi for having succeeded in securing the seat of West Uyoma. In slotting in the name of Hon. Olasi to Health Committee, I think it is appropriate and we should not wait until Selection Committee brings in other names which have been lagging for the last many

2016 SIAYA COUNTY ASSEMBLY DEBATES

years. It has been a problem that we have been pushing the Selection Committees to bring in the names for the other Committees that have been slotted in.

The case of Hon. Olasi is isolated and should not be tied to this one. We welcome him in that Committee and I hope he will perform since that seat has been propelled for a long time by Hon. Odeny, who had been shouldering the Committee's mandate for the last 2 years. Thank you, Mr. Speaker.

Hon. Speaker: Yes, Hon. Deputy Speaker!

Hon. Adera: Thank you, Mr. Speaker, there is no suitable time to congratulate my fellow colleague from West Uyoma than this. I wish to add my voice to those who have sent their congratulatory messages to the Hon. Member. The people of West Uyoma have lacked representation since January to date and I want to believe that with Hon. Olasi coming on board, they will get that adequate representation as the predecessor Hon. Onduru used to give them.

I know we are in our 3rd year but we have not gone too far for him. I think if he works closely with us, he will be able to catch up with the norms of the Assembly and he will be able to deliver. I have seen him; I believe he is a man who will work very vigorously for the people of West Uyoma. It has come at the right time because we were told that Hon. Walter Okello, who was acting in his Ward, has been struggling.

(Applause.)

I just believe he will take over at the appropriate time which is now. Thank you, Mr. Speaker, Sir.

Hon. Speaker: May the Hon. Mover reply!

Hon. Otieno: Thank you, Mr. Speaker, allow me to congratulate the Hon. Olasi for having joined us now. Since he has been sworn in, it is proper for us to invoke section No. 202 that he be put in various committees so that he serves his people well and appropriately. I am aware of concerns raised by various Members to reconstitute the committees. Soon we are bringing a list of fully reconstituted committees of this House. Thank you.

Hon. Speaker: Don't make people in this Assembly start believing that Members of these Committees are struggling.

(Question put and agreed to)

Hon. Speaker: Hon. Members, on the next order which is a report, it's motion on report of Committee of Roads, Public Works, Transport and Communication. We had agreed and I want to believe that that's the feeling of the House that we refer it to tomorrow morning so that we can reconvene to finalize on Housekeeping issues unless there is an objection to that line.

Hon. Oriaro: Not merely an objection, but I have gone through the report and I would not like the report to be objected to on the fact of being below standards. Again it will appear on the County Government website and if these are the kinds of recommendations we are coming up with within this House,... the seventh recommendation except number 6. It will be invalid of this House to transact it.

Hon. Speaker: Don't blame the debate, blame the report, but if I were a member of that Committee I would see

Hon. Oriaro before we present it tomorrow. What we are saying is that we discuss this in House Business in the Morning that once a Committee is done with their reports, their clerks will give them to the legal team to look at the legal compliance before they are even approved by the Speaker and having been signed by the chair of respective Committee, so that we don't come here and pass reports that demean this House. Otherwise, having said that, I would ask for the next reading of the next order.

Hon. Members, would we remain up standing for adjournment? Hon. Members, remain so that you get verifications on what was not finalized during our informal meeting. So there being of no other business this House adjourns until tomorrow, the 6th July, 2016 at 9.30 a.m. in the chambers.

The House rose at 3.45 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 6TH JULY, 2016

The House met at the County Assembly Chamber at 9.30 am.

[The Temporary Speaker (Hon. Adida) in the Chair]

Table of the House today, Wednesday 6th, 2016.

PRAYER

PAPER

COMMITTEE OF GOVERNANCE AND
ADMINISTRATION REPORT ON SUITABILITY
INTERVIEWS FOR THE DEFUNCT LOCAL
AUTHORITY STAFF SECONDED TO THE
COUNTY GOVERNMENT

Hon. Awour: Thank you, Madam Temporary Speaker. I am on my feet to lay on the Table of the House, the report of the Committee on Governance and Administration on the suitability for the Defunct Local Authority staff seconded to the County Government of Siaya for adoption.

The Temporary Speaker (Hon. Adida): Okay, next Order!

NOTICE OF MOTION

COMMITTEE OF GOVERNANCE AND
ADMINISTRATION REPORT ON SUITABILITY
INTERVIEWS FOR THE DEFUNCT LOCAL
AUTHORITY STAFF SECONDED TO THE
COUNTY GOVERNMENT

Hon. Awour: Thank you, Madam Temporary Speaker. I am on my feet to give a Notice of Motion that this House adopts the report of the Committee on Governance and Administration on the Suitability Interviews for the Defunct Local Authority Staff seconded to the County Government of Siaya laid on the

The Temporary Speaker (Hon. Adida): Next order!

STATEMENT

DISMISSAL, RE-INSTATEMENT AND
CURRENT STATUS OF THE COMMITTEE
EXECUTIVE MEMBER FOR AGRICULTURE

Hon. Okuku: Thank you, Madam Temporary Speaker. I am on my feet to seek a Statement. Pursuant to Standing Order 42(2), I rise to seek a Statement from the Chairperson of Agriculture, Livestock and Fisheries on important matters related to dismissal, re-instatement and current status of the Committee Executive Member for Agriculture. In his Statement, the Chairperson should address the following concerns;

There was a court order barring this Assembly from vetting a nominee for the CEC member position in the Department of Agriculture and a further court order re-instating MS Philgona Ooko as the legitimate CEC member. Based on the two orders, coupled with the quest to get clarity on the apparent chagrin in this department, the chairperson should give response to the following;

1. Who is the CEC member of agriculture, acting or substantive as at now?
2. Does the CEC member of Agriculture attend executive cabinet meetings and Assembly

Committee meetings whenever invited?

3. Is the current holder of the CEC agriculture position facilitated by an office and a motor vehicle for running the affairs of the department and does he/she sign official documents of the department?
4. Was there an acting CEC member of this department prior to the Court order? If so, who was the officer? Does the officer still attend cabinet meetings as a substantive CEC member?
5. Was the County Assembly notified formally of the nomination of the acting CEC member, pursuant to Section 8 (1) a of the County Government Act, 2012?

Those are the concerns, thank you very much.

The Temporary Madam

Speaker: This Statement should be committed to the Committee on Agriculture. Where is the Chairperson of Agriculture? In regards to this Statement, the House gives you two weeks to report back to the House.

Hon. Ndonji: Madam

Temporary Speaker, I know I am not supposed to be objecting your ruling but I just want to give information that in the next two weeks the House will be on recess.

The Temporary Speaker (Hon. Adida): Thank you, Hon. Ndonji. The report should be ready by the 1st week after recess.

Hon. Muhulah: Point of information, Madam Temporary Speaker. I would need your indulgence. Is this Statement supposed to be going to the

Administration and Governance Committee or Committee on Agriculture?

Hon. Okuku: The Statement issues include Agriculture as a Sectoral Committee because the CEC member is in the Agriculture Committee. So, I feel that the Agriculture Committee can handle it better than the Administration and Governance Committee.

Hon. Minami: Madam Temporary Speaker, on the same issue, if you see the issues that have been raised on this Statement, three Committees are coming out. One of them is the mother Committee Agriculture, Committee on Governance and Administration and Committee on Legal Affairs and Delegated Legislation. Those three Committees come in to form, because the issues that have been raised in this Statement are very weighty and I think it will be appropriate that if it were possible then a joint Sitting of those Committees is constituted so that appropriate answer is got.

The reason I am saying so, the reason we cannot leave it to Governance and Administration, it is evident through the Sittings of this Committee on Agriculture that the CEC member for Governance and Administration has been acting as the CEC for Agriculture. We have minutes that that CEC has been attending Committee meetings as the CEC member for Agriculture and that cannot be left for this CEC because those issues are touching on him. I feel that if it were possible then we have a joint Sitting of three Committees to come up with a report that will be objective and give the right answers as per the Statement that has been raised. Thank you, Madam Temporary Speaker.

The Temporary Speaker (Hon. Adida): Hon. Member for East Gem, may I remind you that it is Madam Speaker!

(Laughter)

May I direct this House that the three relevant Committees in regards to this Statement have a joint Sitting so that the issues raised here can be sorted out in a more amicable way. Next order!

MOTION

BENCHMARKING VISIT TO VIHIGA AND KAKAMEGA COUNTIES

The Temporary Speaker (Hon. Adida): Yes, Chairman Roads, Public Works and Transport!

Hon. Minami: Thank you, Madam Temporary Speaker. This Motion was laid yesterday by my colleague. As a Committee we have gone through the content of the report and we are requesting that the report be withdrawn from discussion so that the Committee makes a final one especially on the part of recommendations. We have found out that some of the recommendations that this Committee put forth has not been captured in the report that has been laid here. We are requesting that if it is possible the report be brought back to the Assembly on Tuesday next week. I shall call Hon. Walter Okello to second.

The Temporary Speaker (Hon. Adida): Before Hon. Walter Okello seconds, you are reminded that we shall be having recess for two weeks, so I think the best time is after the Assembly reopens.

Hon. Minami: Obligated, Madam Temporary Speaker.

Hon. Okello: Thank you, Madam Temporary Speaker, I rise to second the Motion to be withdrawn. Thank you.

The Temporary Speaker (Hon. Adida): Hon. Member for East Gem!

Hon. Ndonji: Madam Temporary Speaker, I stand to oppose the withdrawal, because I tend to think, when they talk about withdrawal it means that it has to take six months before it comes back to the House.

Hon. Oriaro: On a point of order, Madam Temporary Speaker. I think the Parliamentary practice is that we put a question as regards the Motion and its seconding.

The Temporary Speaker (Hon. Adida): Hon. Member for Central Alego, I wish to inform you that when a Motion is withdrawn, we don't put a question but the Committee is advised on the next date to bring back the Statement or the report.

Hon. Oriaro: But Madam Temporary Speaker, preferentially the matter is captured in the Order Paper, so once it is in the Order Paper, it is the pleasure of the House to discuss, I was prepared!

The Temporary Speaker (Hon. Adida): Hon. Member for Central Alego, we have more reports to be discussed.

Hon. Andiego: Point of information!

The Temporary Speaker (Hon. Adida): Yes, Hon. Member for Central Sakwa!

Hon. Andiego: Thank you, Madam Temporary Speaker. It was our wish and mandate to bring the report and we feel there are some corrections to be done and we have requested, I don't see why it should be a case on the Floor, we should bring something we are satisfied with. Thank you.

2016 SIAYA COUNTY ASSEMBLY DEBATES

The Temporary Speaker (Hon. Adida): Hon. Members, the report stands withdrawn.

(Motion withdrawn)

Next Order!

MOTION

COMMITTEE OF GOVERNANCE AND
ADMINISTRATION REPORT ON SUITABILITY
INTERVIEWS FOR THE DEFUNCT LOCAL
AUTHORITY STAFF SECONDED TO THE
COUNTY GOVERNMENT

The Temporary Speaker (Hon. Adida): Chairperson, Committee on Governance and Administration!

Hon. Awuor: Madam Temporary Speaker, I am on my feet to present a report of Committee on Governance and Administration as has been laid before this House.

The Committee on Governance and Administration has the honor and privilege to present the report on suitability interviews for the defunct local authority staff seconded to the County Government of Siaya, pursuant to Standing Order 192 of the County Assembly of Siaya and the County Government Act, 2012.

After the dissolution of the Transitional Authority as stipulated under the Transition to Devolved Government Act, 2012 Section 37 (1);

“The Authority shall stand dissolved three years after the first general Election under this constitution or upon the full transition to County Governments, whichever is earlier”

The County Public Service Board (CPSB) acting under the guidance of the County Government Act, Section 138(1) espouses that;

“...Any public officer appointed by the Public Service Commission in exercise of its constitutional powers and functions before the coming to effect of this Act and is serving in a county on the date of the constitution of that county government shall be deemed to be in the service of the county government on secondment from national government with their terms of service as at that date...”

Resorted to undertake a suitability interview for all the Staff of the defunct local authority in a bid to:

1. Facilitate the absorption of the defunct local authority staff into the County Government of Siaya.
2. Enable the re – designation of the staff of the defunct local Authorities in accordance with their academic qualifications, skills, capacity and work experience and;
3. Identify Human Resource gaps existing within the Siaya County Public Service establishment in a bid to improve the service delivery to the public, as well as effectiveness and efficiency of the service.

The suitability interviews were undertaken by the Siaya CPSB between 21st September 2015 to 26th September 2015 across all the six sub counties and 309 staff were interviewed. The report of this exercise which forms the basis of this report was subsequently sent to the office of the Clerk of the County Assembly vide a letter Ref No.

SYCNTY/PSB/SCA/VOL.2 (83) dated 22nd February, 2016 in accordance with The County Government Act 2012 section 59 (1) (d) which states that:

2016 SIAYA COUNTY ASSEMBLY DEBATES

59 (1) The functions of the County Public Service Board shall be, on behalf of the county government, to—

(d) Prepare regular reports for submission to the county assembly on the execution of the functions of the Board;

The report was consequently tabled in this Honorable House on Thursday, 25th February, 2016 at 2:30pm and stood committed to the Committee on Governance and Administration for scrutiny and critical analysis before reporting to this House for approval.

Acknowledgement

The Committee is grateful to the Siaya County Public Service Board for facilitating the Committee for the retreat to discuss the report, the Office of the Speaker, the Office of the Clerk and the secretariat of the committee for ably coordinating the activities of the committee and in making this report a reality. It is my pleasant duty, pursuant to Standing Order 190(6), to present the report of the Select Committee on Governance and Administration on the suitability interviews of staff of the defunct local authorities seconded to the County Government of Siaya, for consideration and adoption by the House.

INTRODUCTION

The Committee of Governance and Administration, in execution of its mandate which grants it authority to oversight the Executive as provided for in Standing Order 192 of Siaya County Assembly Standing orders, the Constitution of Kenya, the County

Government Act among other relevant legal statutes reviewed the report and critically analyzed it to fulfill the objective of the exercise.

The Committee on Governance and Administration is created by Standing Order 192, read together with the Second Schedule of the Standing Orders and has mandate over and including but not limited to:

“Ensuring and coordinating participation of communities and wards in governance at local level, assisting communities and locations to develop administrative capacity for the effective exercise of the functions and powers and public participation in governance at the local level”. Specifically, the Committee is granted powers under Standing Order 192 (5) as follows:’

S.O 192 (5)

“The functions of a Sectoral Committee shall be to-

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) study the programme and policy objectives of departments and the effectiveness of the implementation;
- (c) study and review all county legislation referred to it;
- (d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (e) investigate and inquire into all matters relating to the assigned

2016 SIAYA COUNTY ASSEMBLY DEBATES

departments as they may deem necessary, and as may be referred to them by the County Assembly;

- (f) to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (*Committee on Appointments*) ; and
- (g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.”

Terms of Reference/Guidelines

The objective of the committee was to thoroughly scrutinize and critically review the report to assess its comprehensiveness in fulfilling the set out objectives and conformity with the law.

On this matter, the committee held three meetings and one retreat; the first was on 19th February 2016 where the CPSB made a presentation of the report highlighting the major issues that emerged during the exercises and the result of the exercises. The committee resolved that it was essential for the CPSB and the Committee to retreat for two days to discuss the issues in the report. Considering the inadequate financial capacity of the committee at that time which was adequately elaborated by the Chairman, the CPSB committed to sponsor the retreat considering the urgency of the matter.

The second and third meetings were held on the 29th February and 4th of March 2016 where the committee identified the gaps within the report which

formed the agenda of discussion at the retreat.

Finally, the committee and the CPSB conducted a two day retreat to Parkview Hotel in Kisumu on 11th and 12th of March 2016 which was facilitated by the Siaya County Public Service Board to raise and address concerns of the committee so as to reach a consensual understanding of the gaps identified. All the members of the CPSB were present at this retreat.

To adequately accomplish this objective, the committee resorted to documentary review of legal statutes and human resource policies guidelines and manuals to identify gaps within the report and meetings with the County Public Service Board. The outcomes of the deliberations were expected to be: a critical analysis of the report on the suitability interviews which will inform the CPSB on handling the re – designation of the affected staff and improve service delivery to the public.

OBSERVATIONS

Upon scrutiny of the Report the committee has identified particular gaps stated below; majorly regarding deficiency of the law and logic.

Gaps identified in the report.

1. According to The County Public Service Board (CPSB) report on the suitability interviews of the Defunct Local Authority staff undertaken between 21st to 26th September 2015, “....*Each County Government is to decide on whether or **not** to absorb all or some of the employees according to the staff requirement of a particular County Government...*”. The dangers with this statement, is

2016 SIAYA COUNTY ASSEMBLY DEBATES

that it is misinforming, confers on the CPSB blanket authority to dismiss seconded staff, and it is lacking in legal founding. The law provides as follows;

- The Constitution of Kenya 2010 Article 236 (b) on the **Protection of Public Officers** states that “... *A public officer shall not be dismissed, removed from office, demoted in rank or otherwise subjected to disciplinary action without due powers of the law.*”
- County Government Act 2012 Section 138 (1) (b) states that “...*the officer shall not be removed from the service except in accordance with the terms and conditions applicable to the officer as at the date immediately before the establishment of the county government or in accordance with the law applicable to the officer at the time of commencement of the proceedings for the removal;*”
- County Government Act 2012 Section 73 (3) further provides that “...*If for any reason it is not necessary for an officer on secondment to remain seconded and the secondment period has not lapsed, the officer shall be entitled to revert back to the public office held before secondment...*”

- Guidelines on management of public officers seconded to county governments published by the Public Service Commission (PSC) in March 2013 Section 2.2.1 (k) and(l) further stipulates that;

(k) Where there are no vacancies to redeploy officers, the officers may be retrained to perform other functions.
(l) If for any reason it is not necessary for an officer on secondment to remain seconded, the particulars of the officer shall be forwarded to the Public Service Commission for further necessary action. Section 73(3) of CGA

2. On the Legal Mandate for absorption the CPSB in their report only mentions the County Government Act 2012 Section 138 and glaringly fails to mention the Urban areas and Cities Act, 2011Section 57 which states as follows:

57. (1) Every person who, immediately before the commencement of this Act was an officer, agent or member of staff appointed, seconded or otherwise employed by a local authority shall, on the commencement of this Act be seconded or otherwise

*deployed as may be
provided by law.*

3. On the handling of the Public Officers from the Defunct local Authorities, the CPSB in its report has failed to take cognizance of The Constitution of Kenya 2010, The County Human Resource Manual and the Guidelines on management of public officers seconded to county governments provided by the Public Service Commission (PSC) in March 2013 which is a very critical document in the exercise that the CPSB is seeking the approval to implement.
4. On the Categorization of Staff of the Defunct local Authorities; the CPSB has competently categorized the Officers in Salary Scale 1 – 9 as having been appointed by the PSC but fails to inform the Committee that the Second category of the employees under scale 10 – 18 were appointed by the Defunct Local Authorities under delegated authority from the PSC as encapsulated in the Repealed Local Government Act cap 265 section 114 which states “...A reference in sections 107 to 112 inclusive to the Public Service Commission includes, where the power to appoint has been delegated by the Commission to a local authority, a reference to that local authority...”
 - The risk of not mentioning this will lead to a technical knockout of the second category of staff; scale 10 – 18 from enjoying the protection of Section 138 (1) of the County Government Act 2012.

Furthermore Section 138 (6) of the same act recognizes appointment by delegated authority and states; “...*(6) Appointment of a public officer by the Commission includes appointment of a public officer on powers delegated by the Commission.*”

5. Table 5 (Annexure 1) of the report provides details of 47 staff who did not attend the Suitability interviews, of these staff, the report clarifies that 25 have been absorbed by the County Assembly. On further scrutiny, the exact number that has been absorbed by the County Assembly is 29 this means that the CPSB could not accurately account for 4 members of the County Staff establishment yet it claims to have done a physical headcount in the Sub - counties between October 2013 and December 2013. The 4 members of the staff are:

- Kennedy Omondi Opiyo
- Odongo Stephen Otieno
- Otieno Daniel Omondi
- Okwaro Julius Oduor

The CPSB further states that 14 of the staff did not attend the interview and there was no reason given whatsoever for their absence. This matter should be looked into critically to avoid the cases of ghost workers existing in the County Payroll, especially the 14 employees who did not attend the interviews.

2016 SIAYA COUNTY ASSEMBLY DEBATES

6. More disturbing is the fact that since the end of the Suitability interviews in August 2015, no effort had been taken by the CPSB to locate the employees who did not attend the interviews and conduct a suitability interview for them. It's only after the Committee first met the CPSB on 19th February 2016 at Siaya County Assembly Board Room 2, with regard to this report where the concern was raised, when the CPSB rushed to undertake suitability interview for the remaining 14 staff.

7. The CPSB in its wisdom has proposed a reduction of basic salaries of all seconded staff save for only 9 staff with the highest receiving an increment of Ksh. 5,222. The CPSB had done this by placing these employees in Job Groups that disadvantage their

8. remunerations an act in total disregard of the legal frameworks in this country. The law states;

- The Constitution of Kenya 2010 Article 236 (b) on the Protection of Public Officers "... A public officer shall not be dismissed, removed from office, demoted in rank or otherwise subjected to disciplinary action without due powers of the law..."
- The County Government Act 2012 Section 138.(1) espouses that "...Any public officer appointed by the Public Service Commission in exercise of its constitutional powers and

functions before the coming to effect of this Act and is serving in a county on the date of the constitution of that county government shall be deemed to be in the service of the county government on secondment from national government with their terms of service as at that date and—

- a) the office r's terms of service including remuneration, allowances and pension or other benefits shall not be altered to the office r's disadvantage
- b) The office

2016 SIAYA COUNTY ASSEMBLY DEBATES

- r's
terms
and
condi
tions
of
servi
ce
may
be
alter
ed to
their
adva
ntage
..."*
- The County Public Service Human Resource Manual Section B.22 sub – section (4) on Re – designation provides that; *"...If a public officer is re-designated, the officer shall not in any way suffer reduction in remuneration..."*
 - Guidelines on Management of Public Officers seconded to County Governments provided by the Public Service Commission (PSC) in March 2013 Section 2.2.1 (a) states *"...The officers of former local authorities deemed to be seconded to the county government public service shall continue with the terms and conditions of service they held before secondment including remuneration, allowances and pension or other benefits which shall not be altered to the officer's disadvantage, but may be altered to the officers advantage (Section 138(1) of the County Government Act)..."*
 - Letter from SRC Ref: SRC/TS/CG/3/61/23 making reference to a circular Reference No. SRC/TS/CGOVT/3/16 dated 29th July 2013 that provided a remuneration structure for the County Staff after receiving staffing structure from the Transitional Authority which had been arrived at in consultation with representation from the counties clearly explicates that "... staff absorbed from the defunct local authorities and those from the national government should join the structure at the appropriate level of the salary scale in compliance with Section 138 of the County Government Act..."
9. The committee thus proposes two options to the CPSB after reviewing all these legal documents
- First is to place the staff in Job Group that will not disadvantage their remuneration, allowances and pension. (an appropriate level of the salary scale in compliance with section 138 of the County Government Act, 2012)
- Second any difference that may accrue from the

employees pay due to the placement in a job group that may disadvantage their salary MUST remain personal to the staff until the staff is promoted or appointed to a position that attracts higher pay.

10. In cases where the allowances earned at present are lower, they should be reviewed upward to the amount stipulated by the SRC for that particular Job Group; emphasis should be made on the Commuter allowance which was a standard rate of Ksh. 2,000 for all Local Authority Staff. However, this will be picked automatically by the IPPD system according to the Job Groups.
11. House allowances must also be reviewed in congruence with the Job Group that the present basic pay complements and that the employee is placed and must be guided by the SRC Circular Ref No: SRC/ADM/CIR/1/13 Vol. III (126) dated 10th December 2014.

On the recommendation provided in the report, the committee agreed as follows;

1. The salaries currently payable to the staff MUST remain personal to them until they are promoted or appointed to positions that attract higher remuneration.
2. All the staff who have shown evidence of enhancing their education by going back to various institutions of higher learning especially to pursue degrees and post graduate studies must be properly considered when doing this placement into job groups so as to encourage more staff to pursue their studies. This will improve efficiency and morale of the staff.
3. Fire and safety should not be a directorate but a sub – sector under the Roads and Public Works Department and the Board should recommend the construction of fire stations in all major towns in the county and one per sub – county to ensure timely response to fire outbreaks.
4. The committee agrees with the re - designation of staff to comply with the IPPD, however, re - designation should not in any way violate the legal provisions that have been cited above since this shall disadvantage the employee.
5. The committee also agreed that Revenue collection is not a totally accounts matter, at times social workers and public relations officers are required and thus a mixture is necessary. However, the CPSB should concert its efforts on automation and enforcement, relevant training for the revenue collectors and managers and develop a thoroughgoing Revenue Enhancement Plan (R.E.P) to maximize revenue collection.
6. Recommendation (4) in the report on the deployment of staff other than skills, qualifications, capacity and work experience, due cognizance of the law **must** also be observed. In addition development of job descriptions for deployed staff is very critical and must be expedited immediately.
7. Early retirement, according to the committee is the initiative of the employee and not that of the

2016 SIAYA COUNTY ASSEMBLY DEBATES

employer thus the CPSB has neither the moral nor legal justification whatsoever to initiate the process and in any case the incentive should be made very clear to encourage the employee opt for early retirement.

8. The CPSB should consider development of a Recruitment policy that shall guide recruitment in the county as we have seen mass recruitment of staff with no clear objectives.
9. Before reshuffling of staff as stated in recommendation number 9 in the report, staff training and capacity building of the staff is to be first undertaken to build the staff skills.
10. Re – designation and proper placement requires the County Organograms for departments to be first developed and thus recommendation number 10 in the report should take this into consideration.
11. The last recommendation on unfair and unjust disciplinary procedure, the CPSB must provide a list of all these employees if it really conducted the Suitability Interview then it should know the employees they are making reference to. The CPSB must not personalize the case of Ms. Grace Odera and her name must be among other names of staff subjected to unfair and unjust disciplinary procedures. The CPSB should therefore insist on speedy conclusion of disciplinary procedures and rights of the employees to be observed. This is more objective than the

personalization as seen in this report.

12. The CPSB should also think of a County Staff Welfare Association to boost integration and morale of staff. This will supplement the employee's efforts in improving work place environments.

OVERALL RECOMMENDATION

Following the deliberations and analysis of the content and the format of the report, the committee refers back the Report to the County Public Service Board for re-drafting and incorporation of the proposals made by the committee and any other information that may be relevant to the report, and submit the improved report after a period of seven days after the adoption of this report.

I call upon Hon. Osuri to second.

Hon. Osuri: Thank you, Madam Temporary Speaker, I stand to second.

The Temporary Speaker (Hon. Adida): I now propose that this House adopts the report of the Committee on Governance and Administration on the suitability interviews for the Defunct Local Authority Staff seconded to the County Government of Siaya, laid on the Table of the House today, Wednesday, 6th July 2016. Hon. Member for East Ugenya!

Hon. Ndonji: Thank you, Madam Temporary Speaker. I want to start by supporting the report and my main reason for supporting comes from the overall recommendation that the report be taken back to the Public Service Board. This is an indication that the Committee did a thorough job and they were not satisfied with the response from the Public Service Board.

Going into the report itself, you will realize that in a number of occasions, the Public Service Board did not act in accordance with the law and I might even cite page 12 number 7, that states the public service board in its wisdom, am wondering where the wisdom came from, if in any case the law was not followed but I wanted to quote the Constitution of Kenya 2010 Article 236 (b) for the protection of public officers. It states that public officers cannot be dismissed and removed from office, demoted in rank or subjected to disciplinary action without due powers of the law.

When the Public Service Board was giving their report, I tend to think that they never gave the law that they used in interfering with this remuneration and they acted in total disregard to Article 236 (b) of the Constitution of Kenya.

The report would also have indicated the procedures and the information that led to the affection and defection of the staff salaries and if there is any guidance of the SRC because those would have been probably their weapons to show that they were acting in good faith.

I also want to support the Committee for having said they needed a list of the vetted employees and I also wanted them to give the findings and recommendations that they gave at that particular time because that will give us a picture of how it was being conducted and how they came to arrive at the decisions they made because we would now know there was informed decision when they were doing their job.

I don't have much to say. I want to say that the report itself indicates that the Public Service Board has been breaching the law. It is only good that it is taken back

to them so that they identify where anything was wrong and we get a better report. Thank you, Madam Speaker.

Hon. Madam Speaker: Hon. Member for Central Alego.

Hon. Oriaro: Thank you, Madam Speaker. I want to agree with the outlook and indeed with the logic of the report and reporting. Plainly speaking as regards the overall recommendation, we had only made remotely that this was just a preliminary report because if it observes that the report is taken back to the Public Service Board, does it write a report on behalf of the Committee? This one is very wanting because I believed that it is the Committee that writes the report on behalf of the House.

The Committee is an extension of the House such that if it is out in the best interest of the House then it should report in the best interest of the House. So seeing here it beats the logic in the narration, it's like they didn't have the proper terms of reference because it's like the report was not theirs.

Giving weight to that, Page 11, the report talks of a tabulation number 5 and annexure number 1 meaning there are other tabulations and other annexures. We are not seeing it here. And with the one mentioned there number 5 us neighbors would have been interested in knowing who these 47 employees of the defunct local authorities are so away from the logic that somebody would easily support this report.

Logic is interesting, you can use it to pursue a just cause or you can use it to pursue a cause which is not just. You can use it to mislead and you can as well use it to push for just reason. As regards such annexures we realize that this report is below standard. I don't know if such is

what was expected of the Public Service Board to go and help them write. Let us go by the recommendations, this report is segregative.

See recommendation on page 14, recommendation number 2, I don't know whether the drafters of this Report had legal opinion over that statement all the staff who have shown evidence of enhancing their education by going back to their various Institutions of higher learning underscore this especially to pursue degrees and post graduate studies must be properly considered when doing placement into job groups as to encourage more staff to pursue their studies.

This will improve the morale of the staff. Don't we have those who entered into the system with Form 4 Certificates and are advancing to Certificates? Or the entry point was Higher Diploma Certificates is the job sector not capable of growth.

So this Report is below standard because it is not addressing this provision through recommendations. The concerns of those who are capable of growth. The report has got words that are not necessary it ought to have been brought to a note and the point of saying enhancing education by going for various institutions for higher learning. We need those starter technicians and accountants like the KASNEB those are not degrees but they are needed in the County Government. Some were already there some are there and some are advancing.

Hon. Owii: Point of information, Madam Speaker.

Hon. Madam Speaker: Yes, Hon. Kowii.

Hon. Owii: The Member for Central Alego is increasing the confusion in the House. What is indicated in number

2 is that there are members of staff who have continuously gone to school to enhance either their professional accolade or studies. What this report on point number 2 is informing is that they should be considered in any case there is an upgrade or a promotion or there is an opening somewhere. We never said the people who have done Diploma or Higher Diplomas should not be considered. Can you stick to the spirit of the recommendation of this report?

Hon. Oriaro: Let me read it once more, all the staff who have shown we are addressing the plight of those who were engaged by the defunct authorities. Those are the people we are addressing as per the spirit of this report.

All the staff who have shown evidence of enhancing their education by going back to various institutions of learning especially, the word especially, if you are conversant with English and you are conversant with the legal interpretation of the word 'especially' it means that those who are advancing from Form 4 Certificate to Certificate etc. are not considered. That is the spirit such that if this were to be a preliminary report and of course they are going to explore more about it, mine is to advance a course of drafting a report of legal liquid. Thank you, Madam Speaker

Hon. Madam Speaker: Anymore contributions, Hon. Members? Yes Hon. Member for West Gem.

Hon. Abayo: Thank you, Madam Speaker, I want to support this report despite the semantics and legalese that are in contention, I think some of the issues we are going to raise here maybe at the point of the Mover making a reply we would be able to make comments on the same.

Madam Speaker, so that I am not part of the confusion of this House, I would want to believe and I start it from the title. This report is from the Committee of Governance and Administration when it states that it is on the suitability interview, and then it is like it is the Committee that did the interviews. I think that could be the point bringing in the confusion. I believe the Assembly Committee is responding on the report that was tabled then by the Board on suitability of the applicants so that we are able to make the difference about them.

My contribution will be on the basis that the Committee has interrogated the report by the Board on the interview suitability as per the law. I want to start by congratulating this Committee that for me there was serious interrogation of that report and what pleases me and is not in any doubt is that it's on the basis of law that these were done.

Hence they have quoted elaborately and have raised the gap as per the provisions of the law reminding the Board that they ought to consider this and what has come out very clearly is that the law and various statutes plus circulars have been quoted.

I think these are raised to inform the Board that as they give the report, they should consider all these and I am happy that right at the end they are saying that if we agree with what they are saying, they will take it back and I assure them that we shall support as long as they do as it has been proposed to take it back and consider everything that has been put forward. I want to raise a few issues, Temporary Speaker, on the intervention of this committee in which 14 people were left out and we are told that they were in a hurry and so interviews were done in a

hurry also. We need to be informed whether the results for the interviews for those 14 people who were left out have been provided.

I will also be able to get into the second recommendation that has been put before us here and that the spirit of that statement shared between my two colleagues saying that "you must", then it's so affirmative that it has to be considered.

We want to see that continuation of higher education is an added advantage and not a must, when it's quoted so explicitly then we shall be asking on what basis is the Committee making such affirmative or a definite proposal like that. Hon. Oriaro, without me saying errors mentioned earlier and I want to just add that let it be that it's an added advantage and at the end of the day it would improve the quality of service delivery unless it might have other effects that may not guide well.

On recommendation three, there is the proposal that fire and safety be considered and so a construction of fire station in the County and in all the sub counties be considered. I also believe that in putting up such structure which is not just about the structure but also equipping them and making them function properly. A number of issues have been raised like automation of revenue, County welfare association and recruitment policies, but all in all I want to support this report and if the House approves it then the Committee has to consider the issues raised here.

We also expect that by the time the Committee is giving us a more refined report, they will factor in what we have put across and also inform us of their actions or how they are planning to deal with those issues raised, hence we believe that if those issues are taken up by this particular

2016 SIAYA COUNTY ASSEMBLY DEBATES

Committee, then it will be able to have a better report that will tackle the issues of the defunct local Authority staff. As I conclude, I do not know which standing orders were used, because I thought that 17 days is not right and 14 days would do just fine, but again I am not in any way trying to amend the standing Orders as it is in our standing Orders to give the executive 14 days and leave it to the mover as it is in his jurisdiction to act. Thank you and I support.

Temporary Speaker (Hon. Adida): Hon. Booker.

(Loud consultations)

Hon. Minami: Thank you for allowing me this morning session to support the report from Committee of Governance and Administration because it looks like a preliminary report and they were trying to tell us that they need more time to put their House in order so that they can bring forward something that we can discuss.

My reason to contribute is due to an attraction by page 11 numbers 5 which reads that table 5 annexure 1 of the report provides details of the 47 staff that did not attain the suitability interviews. The report clarifies that 25 staff have been observed by the County Assembly and it further continues to say that on further scrutiny, the exact number that has been observed by the County Assembly is 29 and not 25.

This means that County Service Board could not accurately account for four members of the County staff establishment yet they claim to have done a physical head count in the sub counties between the year 2013 and 2014.

This is a worrying moment when an institution which is mandated with the

recruitment and establishment of staff cannot know how many staff from the local authority has been seconded to the County Assembly. I think we are not in the right track because of reports like 5 and 9 in which it's difficult to know the truth. I wish to tell the Committee that something ought to be done about this Board because all the people; the locals and the professions of Siaya are looking up to this County Public Service Board in terms of employment and establishment of County offices. If there are absentees as it is said here, then I think the people of Siaya are getting a raw deal and the Assembly as an oversight Committee must wake up and act.

When you look at page 16 of these Preliminary court number 11 part B, it states that the Public County Service Board must not personalize the case of Miss. Grace Odero and her name must be among other names of staff subjected to unjust and unfair disciplinary procedures.

The Committee is observing a very key thing here that employment is about the establishment of an individual life and if someone is subjected to unfair and unjust disciplinary, I think the Assembly should come in and if it's observed that there is personalization of an institution that is mandated to carry out the activities of employment and establishment of staff in the community of Siaya.

I am wishing and hoping that one of the recommendations that this Committee will bring is to dissolve the Public County Service Board because, how does personalization come when a staff has just been seconded to the County Government of Siaya. If this can be proven further then Mr. Speaker, if you really want to be fair to the people of Siaya, you need to dissolve this Board. The residents

2016 SIAYA COUNTY ASSEMBLY DEBATES

of Siaya are looking upon the Assembly to rescue and to correct the mistakes which are being done by these institutions legally established and constituted. I want to rest my case and wait for the substantive report so that we debate it when time comes; I rest my case, thank you.

Hon. Olasi: Thank you, Mr. Temporary Speaker, Sir. Before supporting this report, allow me to make a brief statement. I want to thank my colleagues who supported me during my campaigns and also thank two Hon. Members who took their time to guide me on 21st of June this year when I was being sworn in. Recommendation number 8 which states that the County Public Service Board should consider development of a recruitment policy that shall guide recruitment in the County as we have seen massive recruitment of staff with no clear objectives.

I remember last week when we were discussing the budget, one of the Members reminded the House of the fact that the current expenditures are eating into our development fund. Going by this particular recommendation, it is true and we have to be serious with our County. You cannot just employ people because of political mileage while our development projects are failing. This particular recommendation will allow me authoritatively to say that I support this report to be taken back, thank you.

(Applause)

The Temporary Speaker (Hon. Abayo): May I invite the Mover to reply.

Hon. Awuor: Thank you so much, Mr. Temporary Speaker, Sir. I want to start from the onset by thanking Members of this House for their contributions. I also want to thank my good friend, the Hon.

Olasi of West Uyoma Ward for understanding. Yesterday I wanted to congratulate him for being elected. Several issues have been raised by several Members but I am happy that they have understood that this is a report within a report of the County Public Service Board and we are going to discuss again with them and bring a report here.

The Hon. Jared Abayo did propose to me, now the Temporary Speaker; you did recommend that we give the Report 7days. We did recommend that we be given 7days and not 17. That was just an oversight on our side, we are going to meet as a Committee and see what to do and I shall still seek your indulgence when the time comes.

Issues have been raised on the annexures which are not forthcoming; I think the annexures were supposed to be part of this, we did recommend that they be attached even without the submission from this side. Certain issues have been raised by Hon. Okuku but I think the understanding of personalization that the board didn't personalize I think he did not get it right.

What this Committee was saying is that the board should have just given us just one name because there are several staffs that have been mistreated in this County Government and they were opposing and they mentioned only one.

This Committee was recommending that instead of giving us one, in fact that would simply personalize the persecution. I just wanted to correct my good friend Hon. Okuku who said the Board had done a bad job by personalizing and that is not the duty of the board. The board just raised the issues from the Executive, the bad issues that the Executive has done and needs to be

corrected by giving examples of one Grace Odero. Hon. Elisha has talked about the staffs that are missing.

I think after the intervention of the Committee as contained in this report, the Board went through and got those people because we had intervened. We shall bring a comprehensive report with all the heads and with all attachments that might have been missing in this one. I want to thank Members and ask them to give us time to pursue the final report that we shall present when the Assembly reopens.

The Temporary Speaker (Hon. Abayo): Hon. Members, I therefore wish to put the question that this House adopts the report of the Committee on Governance and Administration on the suitability interviews for the Defunct Local Authority staff seconded to the County Government of Siaya by the County Public Service Board laid on the Table of this House, today Wednesday, 6th July, 2016.

(Question put and agreed to)

MOTION

ADJOURNMENT

The Temporary Speaker (Hon. Abayo): Hon. Members, arise for adjournment, having exhausted the business of the day, this House stands adjourned until this afternoon at 2:30pm.

The House rose at 11.56 a.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 6TH JULY, 2016

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

[The Temporary Speaker (Hon. Abayo) in the Chair]

PRAYER

**COMMUNICATION FROM THE
CHAIR**

The Temporary Speaker (Hon. Abayo): The Chair would like to inform this Hon. House that in the Speaker's Gallery, we have form four students from Nyagoko Secondary School in West Asembo. This is a History and Government class and we want to welcome them to this Assembly.

(Applause)

Secondly, the Chair is in receipt of a letter from the Ministry of Public Service, Youth and Gender Affairs. The letter is dated 23rd June, 2016 and it's from the Principal Secretary seeking the involvement of the County Assembly Members in the development of the Ministry's strategic paper to empower women participation in competitive elective bodies for political leadership by filing in a questionnaire that has been uploaded on the Ministry's website. The Chair hereby requests the Hon. Members to liaise with the ICT department in order to participate in this process. Thank you.

Next Order!

PAPERS

1. REPORT OF THE IMPLEMENTATION
COMMITTEE ON THEIR BENCHMARKING
VISITS TO THE NATIONAL ASSEMBLY AND
THE SENATE

2. THE IMPLEMENTATION COMMITTEE
SUMMIT IN MOMBASA

Hon. Oriaro: Mr. Temporary Speaker, Sir, grant me the permission to lay the following Paper on the Table of the House:-

The report of the Committee on Implementation on their benchmarking visits to The National Assembly, The Senate and the Implementation Committee Summit in Mombasa.

*(Hon. Oriaro laid the document on the
Table)*

REPORT OF THE COMMITTEE ON
WATER, ENVIRONMENT AND NATURAL
RESOURCES ON THEIR BENCHMARKING
VISIT TO TANA RIVER COUNTY

Hon. Okuku: Mr. Temporary Speaker, Sir, allow me to lay the following Paper on the Table of this House:-

The Report of the Committee on Water, Environment and Natural Resources on their benchmarking visit to Tana River County on the management of water as a natural resource.

*(Hon. Oriaro laid the document on the
Table)*

NOTICES OF MOTION

1. REPORT OF THE IMPLEMENTATION
COMMITTEE ON THEIR BENCHMARKING

2016 SIAYA COUNTY ASSEMBLY DEBATES

VISITS TO THE NATIONAL ASSEMBLY AND
THE SENATE

2. THE IMPLEMENTATION COMMITTEE
SUMMIT IN MOMBASA

Hon. Oriaro: Mr. Temporary Speaker, Sir, grant me permission as the Chairperson of the Implementation Committee to give notice of the following Motion:-

THAT, this House adopts the Report of the Committee on Implementation on their benchmarking visits to The National Assembly, The Senate and the Implementation Committee Summit in Mombasa, laid on the Table of the House today, Wednesday, 6th July, 2016.

REPORT OF THE COMMITTEE
ON WATER, ENVIRONMENT AND
NATURAL RESOURCES ON THEIR
BENCHMARKING VISIT TO TANA
RIVER COUNTY.

Hon. Okuku: Mr. Temporary Speaker, Sir, allow me to give notice of the following Motion:-

THAT, this House adopts the report of the Committee on Water, Environment and Natural Resources on their benchmarking visit to Tana River County on the management of water as a natural resource, laid on the Table of the House today, Wednesday, 6th July, 2016.

MOTIONS

1. REPORT OF THE IMPLEMENTATION
COMMITTEE ON THEIR BENCHMARKING
VISITS TO THE NATIONAL ASSEMBLY AND
THE SENATE

2. THE IMPLEMENTATION COMMITTEE
SUMMIT IN MOMBASA

Hon. Oriaro: Thank you, Mr. Temporary Speaker, Sir. Allow me to take Members through this report:-

Committee Mandate

The Committee on Implementation is established under Standing Order Number 198 which states that:-

- (1) There shall be a committee to be known as the Committee of Implementation;
- (2) The Committee shall scrutinize the resolution of the County Assembly (including adopted committee reports), petition, and undertakings given by the County Executive Committee and examine:-
 - a. Whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary;
 - b. Whether or not legislation passed by the county assembly has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary;
- (3) The Committee may propose to the County Assembly, sanctions against any Member of the County Executive Committee who fails to

report before it on implementation status without justifiable reasons.

Committee Membership

The Committee on Implementation as constituted on Tuesday, 30th April, 2013 is composed of the following Members:

1. Hon. Leonard Otieno Oriaro - Chairperson
2. Hon. Pius Ombiyo - Vice Chairperson
3. Hon. Rose Okite - Member
4. Hon. Peter Muhulah - Member
5. Hon. Rosemary Ogutu - Member
6. Hon. Anjeline Odhiambo - Member
7. Hon. Walter Okello - Member

Acknowledgement

Special appreciation goes to Honourable Members of the Senate and National Assembly Sessional Committees on Implementation, Chairperson and members of the County Assembly Committee on Implementation, and the staff who participated in this benchmarking exercise and ensured the fruition of this report.

The Committee would wish to extend its gratitude to the office of the Speaker and that of the Assembly Clerk for its support towards the planning and facilitating the benchmarking exercise.

Mr. Temporary Speaker Sir, it is now my duty, pursuant to Standing Order 190(6), to present the Report of the Select Committee on Implementation on the Benchmarking exercise with the Senate and the National Assembly Sessional Committees on Implementation for consideration by the House.

EXECUTIVE SUMMARY

The Select Committee on Implementation held benchmarking exercises with the Senate and National Assembly Sessional Committees on Implementation and its counterpart on 19th and 27th April, 2016 at Protection House and Continental House respectively, in Nairobi.

The objectives of this exercise was to; Share their experiences, achievements and challenges of the committee in discharging their roles and mandates specifically on implementation strategies, tracking tools, definition of roles for staff of the committee, time frames for implementation among others. Most importantly was also to enhance closer working relationships with the two institutions.

During the meetings, the Senate and the National Assembly Sessional Committees on Implementation made presentations on the origin and development of Implementation Committee; background and operational mechanisms for enhancing of Implementation Committee activities; mandate of the Committee; tracking of reports, bills and petitions; and overview of the procedure for following up of the implementation. The committees had successful deliberations from which it was recommended that the Committee should:-

1. Recommend to the Executive the significance of a departmental liaison officer who is responsible for following up matters emerging from the Assembly.
2. Design tenable and effective tracking tool for Reports, Petitions, Motions and Bills.
3. Invest in capacity building exercises for the staff and members of the assembly so as to enhance

requisite technical analysis of reports, bills, petitions and motions to ease practicality in implementation

4. Consider reasonable grounds for sanctioning officers who do not implement Assembly resolution without any justifiable reasons.

BACKGROUND

The central pillars of County Assembly in matters of devolved governance are anchored in Article 185(2) and (3) thus:

185 (2) A county Assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

(3) A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.

The main tools for undertaking these key roles of County Assemblies espoused above are: resolutions of the County Assembly (including adopted committee reports), petitions and legislations; so much so that the mission as to ascertaining as to whether the recommendations in these tools are implemented to the latter becomes the logical mandate of the Committees of Implementation, thus their significance.

This argument was further espoused by Hon. Ekwee Ethuro (Speaker of the Senate) at the Implementation Summit in Mombasa where he adequately informed the Assemblies that the *“implementation committee is the mother of all committees since all the sectoral committee undertakings rely on the*

committee to ensure fruition of their recommendations”

The Committee joint meetings at the Nation Assembly and the Senate variously underscored the matter and there was a unanimous resolution that this committee must be accorded its right place in parliamentary parlance.

Since its inception, the Committee on Implementation of the County Assembly of Siaya has faced myriad challenges that have been a constant hindrance to effective performance of its roles and mandate. Some of these challenges include, but are not limited to: lack of an implementation legal framework; weak management roles in implementation at the County Executive; lack of proper communication strategy at the County Executive; lack of commitment to implement Assembly resolutions by the County Executive; unawareness of the Assembly resolutions; multi-faceted interpretation of the Assembly resolutions by the Executive thus the logical watering of the spirit and letter of the very resolutions; unaligned organizational systems and resources within the two arms of County Government; poor coordination and sharing of responsibilities among the two arms of Government; and competing and conflicting interest among the Assembly committees and uncontrollable environmental factors.

Incidental to the foregoing background narrations, the Committee on Implementation opted for benchmarking exercises with the National Assembly and Senate Sessional Committees on Implementation the dates 19th April, 2016 and 27th April, 2016, respectively.

On the 19th April, 2016 at Protection House, the Committee had a fruitful session with the National

Assembly Sessional committee on Implementation under the chairmanship of Hon. Tuisan Tuya.

While on the 27th April, 2016 at Continental House the Committee had had a fruitful session with the Senate Sessional Committee on Implementation under the chairmanship of Hon Sen. James Aggrey Bob Orenge.

The product of these visits is the objective of this report with the sole overall objective of ensuring a better functioning Committee able to discharge its mandate timely and effectively.

Objectives of the exercise

1. Enhance closer working relationships between the two institutions; and,
2. Sharing the experiences, achievements and challenges of the committee in discharging their roles and mandates, notably:
 - Strategies in ensuring total implementation of House Resolutions.
 - Design of tracking tools to follow up on timely implementation of the many House Resolutions.
 - How to enhance a working relationship between the Executive and the House Committees.
 - Time frames allowed for the full implementation of House resolutions.
 - Sanction against failure to implement House resolutions.

OBSERVATIONS

Mr. Temporary Speaker Sir, the Committee on Implementation is not a very new committee in Parliamentary parlance. In the 1980s the National Assembly had the establishment of this committee. However, following a clear lack of the doctrine of the separation of

power between the Parliament and the Executive Arm of the Central Government of the day, the committee had to contend with its legal or legitimate death at formative stages due to external forces.

While the Implementation Committee was reintroduced in the National Assembly during the 10th Parliament with minimal success, then again carried forth to the 11th House where it is now one of the established standing committees - and being very vital in the success of the house business just as espoused in the background of this report; the Senate Sessional Committee on Implementation is entirely new considering the age of the Senate itself - yet the procedures, mandates and activities of its counterpart committee of the National Assembly forms the basis of its activities and mandates thus similarity is very glaring.

Mr. Temporary Speaker, Sir, borrowing from its circumstantial functional mandate at the bicameral national Parliament, it is worth noting also that the Committee on Implementation is the only Committee whose activity shall logically overlap on all the other Committees since it has the power to deal with anything and everything as long as it has been adopted by the House, being the Committee that has a boarder of mandates than all the other committees both standing and sectorial.

Procedure of following up on Implementation.

Mr. Temporary Speaker, Sir, in the execution of their mandates, the Committees on Implementation of both the National Assembly and the Senate have adopted a standard procedure for following up of the adopted House resolution as highlighted below, being now the standard

procedure that the Committee on Implementation is particular on as its recommendation for adoption by the House towards efficient and timely exercising of its mission:

- I. Reports having been adopted by the House are availed to the table office of the Assemblies which immediately notifies the clerk of the Implementation Committee to collect the adopted copy.
- II. The Committee on Implementation thereafter technically reviews the report to assess the practicality of its implementation and notifies the implementing agency through the liaison office, inputs the report in its implementation matrix for ease of memory.
- III. After a stipulated period of sixty days as espoused in the Standing Order No. 192 of Siaya County Assembly, the Committee officially notifies the implementing agency to provide a response on the status of implementation of the resolutions in the report.
- IV. The Committee upon receiving this response considers it and identifies the gaps therein with the aim of engaging with the implementing agency where necessary.
- V. The Committee may undertake field visits where necessary to approve that the resolutions passed by the House have been implemented.
- VI. After sufficient engagement with the implementing agency, the Committee prepares a report on the status of implementation of each and every resolution/recommendation department by department and

reports back to the House on its findings.

In the following of this procedure, the bicameral Parliament have experienced challenges that have proved a bottle neck to its efficacy and have also been the basis for learning for the committees; this report will attempt to interrogate some of these challenges with a bias to their solutions that will form the benchmarks that the committee acquired through the exercise.

1. Financial Constraints

The challenge of financial constraints as experienced by the Committee on Implementation is twofold.

On one hand the funding that the Committee is given is usually inadequate to properly facilitate the activities of the Committee in undertaking major field visit exercises, therefore limiting the accuracy of the matters that it discusses. This challenge was real for the two Implementation Committees of the bicameral Parliament even at our own County Assembly of Siaya Implementation Committee. The Committee thus resolves that it is paramount it be well funded to ensure its effective performance at all times.

On the other hand, House resolutions pursuable by the Implementation Committee with the implementing agency may have financial implications, which may restrain the implementing agency from ensuring timely implementation of the resultant resolutions. Thus it is imperative that the House Committees in their business reporting, and the House in her consideration of the said committee business reporting, take cognizance of the incidental financial bearing that may associate with the resolution itself at the

point of implementation by the implementing agency.

2. Legal viability and Enforcement of resolutions

In Parliamentary practice worldwide, there solidly exist three types of resolutions, namely: Resolution with legal effect; Resolutions with Quasi Legal Effect; and resolutions which are mere expression of opinion with no legal but at times with political effect to send a strong political message. In view of this, therefore, since House resolutions are in themselves never statutes in the strict sense of the word, their effectiveness is solely dependent upon the type of the resolution in question.

The greatest challenge with regard to House resolutions is total enforcement of the resolutions themselves. Since it is simpler to follow up on the first two types of resolutions – resolutions of legal effect and of quasi legal effect, it becomes more trickier to follow up on the last type of resolutions – resolutions of no legal backup or of political expression on a situation - as they depend on the unwritten power of the Assemblies; for the legality of these resolutions should be strictly analyzed to ensure that they are implementable at all times and to avoid delinquency of resolution leading to embarrassment of County Assembly.

In a bid to ensure that the House resolutions are implemented, the County Assembly should initiate the enactment of a law christened ‘Contempt of Parliamentary Resolutions Act’, as to form the foundations for follow up by the Committee on Implementation – forming the basis of legal action by the sovereign people and any other social or institutional arrangements of the public. Such an enactment shall provide enforcement

criteria, anchoring specific sanctions on the recalcitrant members of the implementing county agencies, while ensuring compliance, sanctions which may include, but not limited to budget cuts, surcharge, debarment, and even vote of no confidence.

3. Independence of the Assembly

The independence of County Assembly is of extreme import when it comes to effective follow up on the implementation of House resolutions. This independence can be judged in terms of resources and financing to ensure the objectivity of the members when ensuring implementation of resolutions. To what extent do we rely on the executive for funding and resources? This will heavily determine the objectivity of the committee enabling it to disassociate from conflicts of interest.

Political independence is also another vital aspect of the implementation. Thus should Members of County Assembly ‘sleep’ with the Executive, it becomes difficult for standard level of objectivity to be maintained. Imperative, therefore, is to strictly ensure that the House liberates itself from the Executive and not compromise on their objectivity when following up on implementation of House resolutions.

4. Capacity Building

As the Implementation Committee – by its very origins - tasks itself with matters ranging from legal to political on all the issues that touch on the sectoral departments of the implementing agencies, it is only prudent that both the staff and members of the Committee need proper training and grounding on salient issues in

governance and structure to ensure proper grounding on the matter to be tackled by the Committee.

But the phenomenon of the County Assembly is a totally new creation in the governance system in the Country; so much so that it is no mistake to found low capacity of members and staff as being characteristic. In order, therefore, to have an effective Committee on Implementation, it is imperative that the Assembly invests in the capacities of the Members and the technical staff of the Committee. So, this capacity building should be organized and planned by the County Assembly through consultative workshops and seminars for members, and training in government institutions such as Kenya School of Government for the technical staff. At the senate and the National Assembly the Committee discovered that the Members and Staff of the Committee often go to workshop and seminars where they acquire knowledge on procedure and practice and get the platform to share experiences essential to fill knowledge gaps.

5. Tracking Mechanisms

To ensure effectiveness, the Committee through its benchmarking visit further observed that it was of immediate importance to develop a digital tracking mechanism and tracking tools. These were meant to guide the committee in its daily activities. Tracking mechanisms also shall enable the Committee to gauge its performance; for it be able to know the number of Reports, Petitions, Bills and Motions that it has adequately handled.

The need for this kind of tracking to be made digital is so that its accessibility both to the House and the public shall be made easy and real-time; for other than enabling the Committee

prepare its work plan, tracking tools shall as well help the Committee to know the exact status of implementation of House resolutions proper.

However to make certain that the tracking mechanism works the committee on implementation shall ensure timely transmission of Houses resolutions to the executive for implementation, prepare and publish regular implementation reports, preferably quarterly and analyze statutory reports to track the implementation of House resolutions.

6. Strengthening Coordination & Engagement between Executive and Assembly

As most of the work of the Committee is usually undertaken by the secretariat both at the Assembly and the Executive, it is of paramount importance that the two shall collaborate and build a cordial working relationship; for a good relationship shall help foster tenable and speedy result-oriented actions. Thus the imperative need of holding, though informal but legitimate in the context of mutuality of purpose in service delivery, structured regular consultative sessions between Members of the County Assembly, the Governor and the CECs to keep each other apprised on and arrest, if any, challenges and issues affecting performance and implementation of House resolutions; for it shall emerge as possible continuous engagement between the source of assurance and the implementing agency being the best way to achieve excellence in implementation.

This engagement and coordination should also be laced with an effective communication channel between the Executive and the Assembly, a proper communication channel which shall include well maintained record and record

management systems and work plans both for Committees and departments of the implementing agencies, with measurable outputs and intended outcomes. This can be better done by all the county departments establishing an assembly liaison office that will be the umbilical cord between the Assembly and the Executive.

7. Enhancing working relationship between state and non-state Actors

The quality of legislation from County Assembly is perhaps the most visible sign of both the strength and level of capacity of the Assembly. Since defective legislations are never easily implementable and may create more challenges than solve them, the Committee was therefore informed in these meetings that there was a great need to work with both state and non-state actors especially in the realm of enactment of legislations - the most notable ones being the Kenya Law Reforms, the Judiciary and State Law office.

Other institutions such as the Ethics and Anti-Corruption Commission and the offices of the Auditor General and the Director of Public Prosecutor will also be of vital assistance when investigating and implementing corruption and mal governance issues and cases.

Non-Governmental organizations have also been effective majorly in the field of training and capacity development. However, the engagement with NGOs should be clear so as to avoid serving interests of other bodies and perpetuating external agenda akin to the Assemblies mission and objectives.

8. Public Participation

Considering the fact that all sovereign powers belong to the people, it

is of paramount importance that the citizens, in this case the county public is included in the process of implementation and all other undertakings of the Assembly. This is a constitutional conditionality. Therefore, the Assemblies ought to enact public participation and civic education legislation to ensure the fulfilling of this essential aspect of governance. This will also help the public acknowledge the accomplishments of Committee and County Assembly as a whole.

This should go hand in hand with a properly developed media and publicity strategy. The office of county public relations should develop an effective publicity framework and policy to guide in line with Public Participation Act.

The public should be made aware where the problem lies in terms of implementation so as to avoid public discontent as it has always been in some instances.

9. Public Finance Management

The subject of Public Finance management heavily featured on the agenda of this discussions particularly dealing with the Public Finance Management and Regulations, and there was a general agreement to have the regulations amended. The ability of the Assembly to alter only one percent of the county budget was of fundamental sensation to the Members.

Considering that one the sanctions available to the Assembly is the previous budget cuts for non-implementation of funded projects and programs, this particular regulation render this sanction illusive.

At the Mombasa session with Senate Sessional Committee on

Implementation, one Hon. Elias Njoroge lamented that;

“The Governor and the MCAs are the only elected state officers at the County, and it’s only the Governor who works at the executive, this constitutes of only 1% of the elected leaders whereas 99% are in the County Assembly. To have 1% of the leaders (the Governor) to control 99% of the County Budget and 99% of the leaders (MCAs) to control only 1% of the same budget is a misnomer”

This absolutely summed up the frustration of the Hon. Members with regard to these particular aspect regulations and proposes the need to act swiftly on the part of the bicameral Parliament to deregulate the existing budget adjustment, very act being the usurpation of the constitutional mandate of the County Assembly of legislation.

10. Gender representation

It was also observed by the Committee that there is a unique adherence to gender representation at the Committee and the Senators also implored upon the Committee to ensure the implementation of this ternate of equity as stipulated in the constitution.

In Committees as at the Senate, in cases where the Chairpersons are male, the vice Chairpersons are ladies. The vice Chairperson for the Session Committee on Implementation at the senate is Hon Daisy Kanaiza. The principle of gender representation not adequately visible in Assembly committees and this should be addressed as a constitutional obligation.

RECOMMENDATIONS

1. The County Assemblies should facilitate the necessary amenities to the committee so as to enable it draft a bill on contempt of Assembly resolutions within three

months of the adoption of this report.

2. There should be established an Assembly liaison officer in all the County Executive departments’ in-charge of coordinating all assembly matters to and from the department in three months after the adoption of this report.
3. The County Assembly should, within three months of the adoption of this report, design a tenable and effective tracking tool for Reports, Petitions, Motions and Bills.
4. The County Assembly to invest in capacity building exercises for the staff and Members of the Assembly so as to enhance requisite technical analysis of Reports, Bills, Petitions and Motions to ease practicality in implementation.

Mr. Temporary Speaker, Sir, I now call upon Hon. Walter Okello, being a stalwart member of the Implementation Committee, to second.

Hon. Okello: Mr. Temporary Speaker, Sir, I rise to second.

(Question proposed)

Hon. Muhulah: Thank you, Mr. Temporary Speaker. I rise to support the report having been part of the two Committee Sessions of Implementation of the Senate. I will not want to dwell into the body of the entire report but I want to talk about the recommendations that are highlighted.

Recommendation number one, on the issue of drafting a bill on contempt of Assembly, it has been a tradition in quite many instances where even very pertinent issues that are supposed to be discussed in this House are impossible, there has

always been defiance from the Executive side. Some of them have been disqualified with quite a number of reasons that would actually hinder them to appear before the Committee. Some of these things have been deliberate.

There is an authority that is given by the Constitution to this House that we have that absolute authority of summoning a CEC or even any witness to appear in front of the Committee. Through the Senate, there can never be any instance where a CEC or let's say a Cabinet Secretary would deliberately refuse to appear in front of a Committee but the day there is one, other than the Standing Order and maybe a Clause in the Constitution, there is no any explicit bill or any Act that would actually force these people to come and appear before the Committee.

Many occasions that we have always started the issue of investigation and stopped by even the directive from the Chief Executive Officer of the County, the Governor or the Deputy Governor telling the CEC that there was no reason why they should appear before the Committee. It is prudent that we must take it seriously and the issue of drafting that bill on contempt should come out very handy in controlling this.

Why do we talk about number two? The failure and the confusion that has always occurred in the County Assembly of Siaya and the Executive is that there is no proper coordination.

Our only way to get to the Executive is through the County Secretary. Recently we were in Kisumu, there was a disconnect where quite a number of people did not get the summon to appear in front of the Budget Committee and given the same documents that we required having been said that they were pushed to the

County Assembly through the Clerk but we still insisted that those documents were never received and never saw the light of this House. This was because there is lack of a Liaison Office unlike in the Senate and the National Assembly, we have the Liaison Officers who coordinate the communication between the National Assembly and communication between the Executive. We have never been late in doing this one than now, time has come that we must ensure that the County Assembly of Siaya and the County Executive of Siaya have the Liaison Officer for the coordination and communication to flow easily such that somebody would be held responsible for failure to communicate.

Mr. Speaker, the effective tracking of a report, petitions and Motions once again comes up very handy as a reason why the implementation of these petitions and reports is not coming in time! How do we enhance that one?

The only way we can enhance that one is, as much as the Implementation Committee is cutting across all the Committees we must take that responsibility of tracking them before even we get to the point where we can have the very able legislation that will enable us to track these things that will help this House.

The technical understanding, you are not able to implement something that you don't understand. The same way, Mr. Temporary Speaker, any time you pick a risk then you must be able to know the consequences of that risk and the consequences of whatever we want to do is to ensure that what we have resolved to be done will push it through the technical ability of our staff and that one can never be achieved unless we invest in capacity building. These are things that we would

want the management of the County Assembly to take them as principles that will be covered in the capacity building in the Human Resource.

The Implementation Committee is one of the most sensitive committees in the House. We talked here about the question of meeting; this is one Committee that must be within the circle without wasting to ensure that each and everything that is deliberated and resolved from this House is achieved.

This report is talking much about what actually we learnt from both the Senate and the National Assembly as far as the Implementation Session Committee is supposed to be covered. As a Member of this Committee I want to applaud the work that my colleagues did in meeting these people and coming up with this report. I sit and I say that I support this report.

The Temporary Speaker: Yes, Hon. Erick Ndonji!

Hon. Ndonji: Thank you, Mr. Temporary Speaker, Sir. I rise to support this report. First I want to say that this Benchmarking was long overdue by the time the Members were going there. As I have been saying early, most of our Benchmarking are meant to see what we have not been doing right or even to improve on what we are doing that is right and I think this one was quite timely.

I would like first to dwell on the challenges that the Committee has said that they have been facing, the first one being financial constraint in which the Committee has highlighted to the House and the Committee is usually given inadequate funds to properly facilitate the activities of the Committee in undertaking major field visit exercises.

I want to say that generally it is not only the Implementation Committee that is

getting inadequate funding and I can say that this is a very big problem because of the ceilings that were placed probably without proper research and as a result of the influence that was done by the Executive.

Therefore, when we lament about the funding, it is very important for us to realize that as Assemblies we have got ceilings in which we cannot spend more than what has been put in place. But as the same time we also want to find a way in which, if there is a way we can be funded so that implementation can be done then I will support that one.

The other challenge they said was legal viability and enforcement of resolutions. In that one you realize that they said that, in parliamentary practice worldwide, there solidly exist three types of resolutions namely; resolution with legal effect, resolutions with quasi legal effect and resolutions which are mere expression of opinion with no legal but at times with political effect to send a strong political message.

Most of what we have passed here are never political, therefore I can put whatever we have passed in this Assembly in either of the two first mentioned resolutions. On very many occasions, you find that the Executive does what they are supposed to be doing; resolutions that are passed in this Assembly in most cases are never implemented.

I think that when they talk about the Law that is being christened, the core the content of Parliamentary Resolutions Act, I think it is very fundamental that what we speak and ensure that it is put in place so that incase the Executive or the person who is responsible ----what has been passed in the Assembly should know the consequences that will follow. What is

important is the legibility of this Assembly. If we pass issues and they are not implemented by the Executive and it just goes like that then there is nothing we are doing in this Assembly.

The report talks about the challenges in terms of independence of the County Assembly and they say that it is of extreme import when it comes to effective follow up on the implementation of the House resolutions.

I want to call upon all Members that it is very important for us to be always objective and let us not believe that whenever we are being objective we are fighting the Executive, we are only putting the Executive on toes and therefore it is very important that we follow whatever has been written in this report. On capacity building, what they did was also capacity building, it was part of capacity building but I tend to think that there is more that should be done, not only the Implementation Committee but all the Committees find a way in which they can be working in a very good way.

Talking about digital tracking, developing digital tracking mechanism and having tracking tools, this is very important because everything is going digital. Right now, if I leave my phone in the house, you will find that my very small child will take the phone and start playing with it and can even call! Which means that the world is turning digital and we ought also to become compliant and do what is done all over the world.

Mr. Speaker, Sir, coming to strengthening coordination engagement between the Executive and the Assembly, this one is very important despite the fact that we should know that each of these Arms is independent of the other. We also have to think about the interdependency

and at what level are we interdependent. This one also will depend on the attitude of the Executive and the way it will get into the Assembly. If they are not ready to engage with the Assembly, just talking about being independent without any way we are going to consult then I think we will be an exercise in futility.

It has gone ahead to say that we need to maintain a proper communication channel which shall include a well maintained record and record management systems and work plans both for Committees and Departments of the implementing agencies, with measurable outputs and intended outcomes. It is very clear that you got to have in place whatever is measuring, how much implementation has been done? How much of it has not been done and what were we intending when we were passing these resolutions!

The Temporary Speaker: Hon. Ndonji, you should be concluding!

Hon. Ndonji: I am trying to conclude Mr. Temporary Speaker, Sir. I want to get to the recommendations but what I can say is that it is very clear that you have to put in place whatever is measurable, how much implementation has been done and what was intended while passing this resolution.

Hon. Speaker: Hon. Ndonji you should be concluding your remarks.

Hon. Ndonji: Am concluding, I want to say that the recommendation is okay, but falls short in addressing the challenges as I have pointed out. Therefore I think that they should also put out the solutions to the challenges on the recommendations, thank you.

Hon. Speaker: Hon. Munda!

Hon. Munda: Thank you for the chance to also add my voice to this

important motion. First, I want to thank the Committee of Implementation for the work they have done. They did not just go to Nairobi to walk around but also to learn and that's why I am saying that we should appreciate and commend the Committee. I want to refer to the statement that the Committee is the mother of all Committees and I wonder who or which Committee is the father of all Committees.

The Committee was very right when it said that there was inadequacy of funds to undertake field thesis when we well know that this Committee needs a lot of money to do so, this is very important because they are the people who go to get facts on what we pass on this Assembly. We should add them money and enable them function properly as intended.

(Loud consultations)

Secondly, I also agree with the Committee because there is need to be service and Liaison Committee in all the County departments. This is very important because this is the organ that will coordinate and see to it that everything that is passed in this Assembly is done by the designated departments. Last but not least, I want to thank the leadership of the House for allowing students from my area school to come and learn how Assembly works. Thank you.

Hon. Minami: Mr Speaker point of order.

Hon. Speaker: yes, Honorable. What is your point of order?

Hon. Minami: The Hon. for West Asembo is claiming that Nyagoko School is his School, so I don't know if Nyagoko School is private and is he in order to say that the School is his?

Hon. Speaker: Hon. Booker, just to remind you that Nyagoko Secondary is in West Asembo Ward and where the Hon. Member who is on the Floor is the area MCA, therefor he is in order to introduce the School as from his area.

Hon. Munda: Thank you, Mr Speaker, Sir, for clarifying that and Hon. Booker should know that I am the chairman of Nyagoko Secondary school Board, hence it's my School.

Hon. Speaker: Yes, Hon. Were.

Hon. Were: Thank you, this is one of the best reports that we have had in this Assembly in the recent times. There is a performance appraisal that the Committee has been undertaking in the last 4 years and they are honest enough to admit that there have been total let down to the Assembly and general public.

There were a lot of constrains as I was going through the report, the budget for 2015/2016 has been done and so the train has left the station, so how implementable is this report? I was asking myself seriously over the recommendations because this is like a vehicle with no fuel yet there is a report, we know it's there and we know that they went to the Senate; the literature is there, we know our ability and therefore I appreciate and support. Thank you.

Hon. Speaker: Yes, Hon. Nicholas Aneme.

Hon. Aneme: Thank you for this opportunity to also contribute, first I want to start by supporting this report because it has been an eye opener for us given that Siaya County has been lagging behind especially when I look at the objectives as they have been numbered. I shall start with strategy, it is true that Siaya as a Government has been lacking the strategies between the Assembly and the

Executive which can enhance the performance of our Government in terms of project implementation while the report is telling us that that's an area that both have not been dealing with. But given that now it has been shared between even the other Houses that is National Assembly and the Senate, hence it's important to move with speed and come up with the strategies which will help us track the expenditure and developments that we have not been briefed on.

The second suggestion that soothed me is the idea that we should develop a tool that will help us do a follow up because we are in a state that we do not know even what is happening on the Executive side and this is because there is no proper road map as well as tools on how this is to be done. Sometimes we struggle even to call those people to come to us of what is going on and it has reached to a point that it's a hide and seek game between the two, so I think this is an evidence that without these kind of tools, things will remain at disarray the way they have been.

It's very important that we help this Committee to come up with such a tool that will probably enhance the following up and strengthen the relationship, everything between Assembly and the Executive is always war, but it's important to try and embrace them, invite them and even go to them if need be so that we can cement our relationship which will lead to development of this County and as we know, a home where there is peace there is growth. But if the Executive keeps running away from us as we also run away from them, then we shall not have any tangible achievements that our people can relate to.

It's very important that we harmonize these and find ways to relate, this report is telling us that however much we have been having a system it has not worked so far and needs enhancement. Lastly, the sanction against the failures has not been forthcoming given that even when we have given clear action to be taken against certain officers who have shown failures on the part is not adhered to. I think the legislation will help us as mentioned in number 1, that it's better we look for ways to come up with a document that we shall use for reference when we are having an issue. Thank you and I support that we help this Committee to implement these.

Hon. Speaker: Hon. Members, we shall limit our discussions to 2 minutes because we have also one business to transact. I want also to raise the concern of a quorum because we shall not transact any business without quorum and I want to notify the House that we have met the threshold and if anybody leaves, we shall not transact any business.

Hon. Okello: Thank you, I want to briefly add my voice on the report that it was done properly and I am proud to say that this is a template of how a benchmarking report should be done. So, I would want to thank ourselves on behalf of the House for the good work the Committee has done to bring such a marvelous report that meets both the National and International standards.

A lot of things have been said in contributing on the same, but I want to say that at the gist of this report, the concept of strengthening legislative capacity of the County Assembly, we need not to beat ourselves too much as an Assembly because we met both the National Assembly and the Senate separately, we

2016 SIAYA COUNTY ASSEMBLY DEBATES

were able to evaluate ourselves, our achievements and our gains so far within the 3 years that we have been trying to discharge our duty and we can authoritatively say as a Committee that we are even doing much better than the National Assembly irrespective of the frustrations and numerous challenges that we have been facing. As an Assembly, we have been able to put our efforts and go out there to do projects and we are even able to put our voices in a number of issues making sure that the concerns of our people are addressed.

We don't need to beat ourselves too hard in reference to what we have done so far, we also need to remember that we are the First Assembly, therefore whatever we do will serve as precedence to the coming Assemblies in Siaya County. I just wanted to repeat on what Hon. Aneme has just talked about and very important which is the relationship between the Assembly and the Executive. For a long time it has been seen as if there is a competition between these two branches mostly on the Executive side.

The Legislative arm of this County is in competition with the Executive side. I wish to bring a joint forum with the Members of the Executive so that we see that we should have a complimentary relationship rather than a competitive one, so that we then understand that as Committee of Implementation, we go to them to keep abreast of the projects and it is not in competition, that it is well within the Constitution to discharge our mandate of oversight for the benefit of the people of Siaya County in terms of projects and activities that will impact the lives of Siaya people positively.

Mr. Temporary Speaker, Sir, with those few remarks, I want to say that let us

adopt this report as it is. Now that it is from Implementation Committee, I don't know whose docket it will be to ensure that the report is implemented but I want to believe that this Assembly has the tools and mechanisms to ensure that this report is implemented to the letter.

Finally, allow me to Join Hon. Munda in welcoming Nyagoko Secondary School. I have not said that it is my school, but it is a school within the area I come from, I personally went to Nyagoko Primary School...

(Applause)

... and a lot of my friends and classmates proceeded to Nyagoko Secondary School and a lot of them today are my colleagues and others are senior people in various places. I want to take this opportunity to encourage our young brothers and sisters that the fact that you have managed to come to Siaya County Assembly today is inspiration enough for you to one day become the next speaker, the next MCA and Executive member as the rest of us age out and leave these Seats.

(Applause)

Hon. Temporary Speaker (Hon. Abayo): Hon. Booker Otieno.

Hon. Minami: Thank you, Mr. Temporary Speaker, for the opportunity you have given me to contribute to this report. First of all I want to thank this Committee for the report they have brought to the Assembly. Mr. Speaker, you know that the Committee was on a bench marking spree and indeed that spree has been very fruitful considering the content of this report.

I just want to say a few things. One is that it is true the Committee has

2016 SIAYA COUNTY ASSEMBLY DEBATES

enumerated the challenges that maybe as a Committee they are facing. They have even given a few recommendations. Recommendation number 1, that I do not agree with, that recommendation is taken care of in our Standing Orders and this House is never short of what they should do to make sure that implementation of projects is done.

Our Standing Order 198 concerning the Committee of Implementation states as follows; The Committee shall scrutinize the resolutions of the County Assembly including adopted Committee reports, petitions and undertakings given by the County Executive Committee and examine;

1. Whether or not such decisions and undertakings have been implemented and where implemented the extent to which they have been implemented and whether such implementation has taken place within the minimum time.
2. Whether legislation passed by the County Assembly has been operationalized and where operationalized the extent to which operation has taken place within the minimum time.

Finally, the Standing Order gives the implementation Committee the following; The Committee may propose to the County Assembly sanctions against any Member of the County Executive

Committee who fails to report to the relevant select Committee on implementation status without justifiable reasons.

You don't need any law to do your recommendation and even the remedies of failure that we are giving here that the Executive usually don't come, it is true they don't come but as Committees of this Assembly the Standing Order usually gives us options on what to do if the Executive fails to honor our summons. So my question to this Committee is that, have you ever implemented the Standing Orders so that we require extra laws that will help you? I have never heard of any day that this Committee has summoned or have recommendation for this Assembly to summon any Executive member for failure to appear before it or give information that they require.

So before you request us or this Assembly to help you, it is your work you come up with that bill so that we support you. But before you request us to support you, implement the Standing Order 189 and you are going to find that your work is very easy. This House I believe is going to help you to implement Standing Order 198.

As I finish I think it is very important according to the Report that as a House we make sure that implementation of House resolutions is done within the minimum time that is specified. I heard the Chair of the Committee say 60 days so after 60 days the next action should be taken.

The Committee mentioned about 12 challenges but in their recommendation they had only 4. What about the other challenges, what are they doing about it or they have put them together to be 4, because the challenges that the Committee

has raised here are very pertinent and it was my belief that each challenge should have a recommendation so that we see what to implement in each and every Committee.

Nevertheless as has been said my colleagues this Assembly is a work in progress we are the pioneers of this Assembly and in the process of implementing a new thing you will find that you will make mistakes here and there but this one is a good starting point and I want to congratulate my colleagues for the Report that they have tabled here because moving forward we can build on this report to make sure that our work as Assembly is effective and efficient according to the wishes of our people. I support the Report. Thank you.

The Temporary Speaker (Hon. Abayo): Yes, Hon. Zilpah!

Hon. Omondi: Thank you, Mr. Temporary Speaker; I also arise to support this report. I am entitled to talk because of these young people that are in the public gallery. I have been throwing my eyes up there and I wanted to see whether there are girls up there but somehow, they all shave their hair and they look alike so everybody has been looking like a boy but I hope there are girls there and I welcome all of you

The Temporary Speaker (Hon. Abayo): I can see there are girls up there.

Hon. Omondi: ...but from where I am, I just see boys. It is just that I heard the Hon. Walter saying that the girls and boys but from where I sit, I can only see boys. I want to also welcome you especially the girls and because of the girls I will talk about challenge number 10, gender representation. It states in this report that it was also observed by the Committee that there was a unique

adherence to gender representation and the Committee and Senators also implored upon the Committee to ensure the implementation of equity as stipulated in the Constitution of Kenya 2010.

In Committees at the senate in cases where the Chairpersons are men, the Vice Chair is ladies. The Vice chair of Implementation Committee at the Senate is Hon. Daisy Kamaisa. It goes on to say the principle of gender representation is not adequately visible in Assembly Committees and this should be addressed as a constitutional obligation. I just wanted to say that in the County Assembly of Siaya, that has not been adhered to and I hope that the Chairperson of Implementation Committee now that we have agreed that you have been sleeping on the job now you take this one as the first step in the implementation of this report so that we see you are keen on that. Thank you, I support the report.

(Applause)

The Temporary Speaker (Hon. Abayo): Yes, Hon. Olasi.

Hon. Olasi: Thank you, Mr. Temporary Speaker, I rise to support but before that I will not talk about the challenges but I want to add something about the objectives and possibly one of the recommendations.

On Page 6, we get to learn that one of the objectives was;

3. how to enhance a working relationship between the Executive and the House Committee.

4. Allow the full implementation of the House resolutions.

5. Sanctions against the failure to implement the government recommendations.

6. There should be established an Assembly Liaison officer in all the County Executive departments in charge of coordinating all Assembly matters to and from the department in 3 months after the adoption of this Report.

I have been here for 1 and 1/2 weeks but it seems there is a big problem between how to coordinate the Assembly and Executive so the Assembly can deliberate on it but how to implement it becomes a problem. Now the implementation Committee is crying. Last week we were here debating on the Budget report. We have the progress of 2013/2014 or 2015/2016 that were not done and nobody can explain to this House and the House passed those Reports in the Budget that those particular projects need to be done. I am learning that there is a big problem that the implementation Committee should have a liaison officer to be coordinating what is happening in the Assembly and the Executive then we are doing almost nothing if not none. If they are not implemented...

Hon. Olasi: ... I have heard that we have our own budget formula; we can use it and pass the Bill if not the report but if they are not implemented, we are not helping our people and neither are they helping us in one way or the other. I rest my case, I support the report.

The Temporary Speaker (Hon. Abayo): Hon. Members, as I had mentioned time, but that notwithstanding, I think I want to draw this to the attention of the Mover because I get three or four people have mentioned this. I want to draw your attention to recommendation number two. There should be established an Assembly Liaison Officer. It should be and I think the Mover needs to look at that; it is the Executive Liaison Officers in all

departments and not the Assembly because various departments in the Executive don't have this department. I think the following statement corrects what I am talking about so the Mover and anybody going to handle this. This is the Executive Liaison Officer or office and I wish to inform his House that the Assembly has an Assembly Liaison Officer. Yes, Hon. Okuku.

Hon. Okuku: Looking at the mood of the House, I want to request that you call upon the Mover to reply.

The Temporary Speaker (Hon. Abayo): Yes, I shall, I want the Mover to consider what I have mentioned and therefore if that is the position he will be able to move forward with this as amended. Hon. Oriaro, as the Mover, would you reply.

Hon. Oriaro: Thank you, Temporary Speaker, Sir; I would like to thank you for having very objectively guided the debate on the Report which in a near unity in fact to a unity scale Members have appreciated it and I'm very happy because the spirit in the laying was its adoption. Issues have aroused even though the Report is seemingly and sounding yes. One issue was we had many challenges but recommendations are only few.

A classic case is the mentioning of the issue of gender, well captured but not in the recommendation. This is a National issue and before I utter that if you are keen on the Report you should realize that at times you are talking about County Assembly. In recommendation number one, we are talking about County Assemblies. Like the case of going to the Senate, we were with Vihiga County and in the summit it was the entire County Assemblies.

The spirit of this report; in certain instances it echoes that which is within and

on other instances it is the issue of National outlook where the intervention should be National in the hands of Members of the National Assembly and the Senate. As we talk of having many challenges, it ought to be noted that even some of the challenges we realize that even the National Assembly could even be bad off in some of those issues but I'm happy that we didn't capture it because it would have painted us in the negative picture.

Mr. Temporary Speaker, Sir, if you allow, I can give an example; were it not for the intervention of the Chair of the National Assembly's Committee on Implementation, some Members were chastising us for misuse of public funds and the Chair told them bluntly that they do not know their duties as National legislators. County Assemblies and National Assemblies do not handle money, it is the Executive. On the issue of gender for instance, the problem the Assembly had is the elected persons got confirmed months ahead of the Nominated ones because of the Court cases.

There is already an amendment on the Elections Act. No Member of Assembly shall take Oath of office if Nominated are not there. The Assembly shall only take route if the Nominated and the Elected are together. When Committees are being constituted, it's a fundamental rule of democracy that any meetings, the Membership elect their Chair and their leaders.

It would be of a mutual concern that it is well tackled at that level. This is how the National Assembly and the Senate resolve the issue of gender because it was done at the formative stages and this one envisages a case in 2017, that was the spirit of that Report. There are few

recommendations because there are other issues that are well captured in the body of the Report and not here. On the issue of Assembly Liaison Committee, that is the nomenclature adopted by the National Assembly and the Senate where at the Executive level and interestingly they invited some of them, at the departmental level for instance the case on Committee on Agriculture at the Executive there is somebody positioned to handle matters of the Assembly when it comes.

If at all maybe the communication delays and our issues are on the Assembly website, that coordinator at the Executive level having seen what is captured at the website, they will naturally respond to some of these because of the issue of timely action. At the National Assembly and at the Senate, they are referred to as liaison officers. I talked to them and in the future they will be emailing some of their Reports they've handled. Lastly, on the issue of the Standing Order, I think it was a typing error the spirit as explained objectively by Hon. Muhula would be different from what the Standing Order says. What is always varied and carry's the weight of the day is the law by the order of the day is what the law says because we can even sit today and we amend the Standing Orders.

It was a National phenomenal, it was echoed at both levels because they also realized there were weaknesses that's why the issue was because we have got the powers to enhancing our services by way off coming up with law as long as they don't contradict laws and the Constitution. The Assembly can come up with a way of enforcing contempt, it is easy for a law of Law to enforce contempt but it will require an uphill task for the Assembly to enforce contempt. If we go the legal way of having

2016 SIAYA COUNTY ASSEMBLY DEBATES

a contempt Act, I shall really see to it that we act to speed and impunity sees not the light of the day. In the body of the Report we underscore the Public participation Act, this was lacking in our entire sister County. It was also lacking in the National because the Constitution gives them provision of Public participation. County Government also talks about it, in Siaya you can confirm this; we went ahead and came up with a public participation law.

That is all about the entrenchment of that statutory provision and Constitutional provision so when mentioned in the body of the report, it means such a law will be copy pasted by other Counties and easily adopted so that they do not invent a will just as on our own observation in this report if we have a contempt it would be also not inventing the will. I support my fellow Members in this Committee for having so smoothly defended the report, I support but I really thank the House for having become amenable to the spirit of our Report and thanking us on it.

The implementation of this Report as observed by one of the Members that there are no timelines. We had an informal session this morning was that we be proactive, we don't sit on the job. The adoption of this Report will act as a quantum way forward in seeing to it that the public get the democratic goods, the governmental services not only timely but eternally. Thank you, Mr. Temporary Speaker.

The Temporary Speaker (Hon. Abayo): Hon. Members, allow me to put the question that this House adopts the report of the Committee on Implementation on their benchmarking visit to the National Assembly, the Senate and the Implementation Committee

summit in Mombasa laid on the Table of this House today, Wednesday 16th July 2016.

(Question put and agreed to)

**MOTION-REPORT OF THE
COMMITTEE ON WATER,
ENVIRONMENT AND NATURAL
RESOURCES**

Temporary Speaker, (Hon. Abayo): Yes, Hon. Elisha Okuku.

NOTICES OF MOTION

REPORT

COMMITTEE ON WATER, ENVIRONMENT
AND NATURAL RESOURCES
BENCHMARKING VISIT TO TANA RIVER
COUNTY ON MANAGEMENT OF WATER AS
A NATURAL RESOURCE, 6TH JULY, 2016

Hon. Okuku: Thank you. I stand to give notice on the motion that this House adopts the report of the committee on water, environment and natural resources benchmarking visit to Tana River County on management of water as a natural resource, laid on the Table of this House today Wednesday, 6th July, 2016.

The Sectoral Committee on Water, Environment and Natural Resources is constituted under Standing Order 192 (1) of the Assembly Standing Order, and is mandated to oversight, *"All matters related to water, sanitation and irrigation services"* has the honor and privilege to present the report of Committee of Water, Environment and Natural resources on the Benchmarking visit to Tana River County on management of Water as a natural resource.

2.0 Membership

The following are the Members of the Committee:

21. The Hon. Elisha Okuku, MCA
- Member (Chair)
22. The Hon. Peter Ombee, MCA
- Member (Vice -Chair)
23. The Hon. Hilda Otieno, MCA
- Member
24. The Hon. James O. Munda, MCA
-Member
25. The Hon. Nicholas Were ,MCA
- Member
26. The Hon. Pamela Midumbi, MCA
- Member
27. The Hon. Teresa Osore, MCA
- Member
28. The Hon. Joseph Agoko, MCA
- Member
29. The Hon. Christopher Apiyo, MCA
-Member
30. The Hon. Pamela Ngure, MCA
-Member

On 22nd February, 2016, the Committee on Water, Environment and natural resources did visit Tana River County to benchmark on harnessing of water as a natural resource, operational challenges and successes.

Siaya County has three major urban areas, namely Siaya town, Bondo and Usenge. Siaya town is the most populous with a population of 20,923 people (2009 Census) followed by Bondo (14,745) and lastly Usenge (9,830). The urban population is projected to increase to 23,973, 16,895 and 11,263 (KNBS) respectively by 2017 on account of

urbanization and opportunities opening up due to devolution. The County government therefore must plan for water and sanitation in these urban areas and others such as Ugunja, Ukwala, Ndori, Akala, and Usigu; among others which are likely to experience substantial growth in the coming years.

In Siaya County, only 36% of the population has access to water from improved sources such as protected wells, boreholes, shallow wells and piped schemes. Siaya County has old water schemes which require rehabilitation and expansion and they include: Siaya water Supply, South Sakwa water Supply, Segwa Water Supply, Bondo Water Supply, Mauna Water Supply, Ugunja Water Supply and Sidindi-Malanga Water Supply. Asembo Water Supply is new but also requires extension for more coverage. Other service providers are mainly institutions and community managed water schemes. Siaya already has private sector participation in the management of Ahono Sinaga Water Supply under leasehold.

The service delivery within the county is compromised by several factors, namely:

- a) Vandalism of water pipes.
- b) High level of Non-Revenue Water(water that is lost due to leakage)

- c) Old and dilapidated pipelines and distribution lines
- d) Low management capacity particularly of community managed water supply schemes
- e) High cost of electricity
- f) Poor maintenance
- g) Inadequate financial allocation in the county budget

h) 3.0. TANA RIVER COUNTY BACKGROUND

3.10. Identification

Tana River County is one of the forty seven (47) counties in the Republic of Kenya. The County takes its name from River Tana which is the longest river in Kenya. It is a County in the former Coast Province, Kenya with an area of 35,375.8 square kilometers (13,658.7 sq. mi) and a population of 262,684 according to the

2012 census. The administrative headquarter of the county is Hola. The County has three sub counties; Bura, Galole and Garsen.

It has three constituencies namely Tana North, Tana River and Tana Delta .The wards are 15 which result into 15 elected Members of County Assembly and 11 nominated members. The total number of Committees is 23, 9 sectorial and 12 standing. There is also Bursary Committee, Car and Mortgage Committee. Given the ratio of members as compared to Committees, a member can belong to up to six Committees.

The Committee met their counter part from Tana River County (Committee on Water, Health and Sanitation) chaired by Hon. Manase Samuel Guyo and County Director for Water, Mr. Madubi.



An aerial view of the Tana River. Image courtesy of United States Department of Defense/Wikipedia

3.20. Location and Geography

Tana River County is one of the six Counties in the Coast region. It borders Kitui County to the West, Garissa County to the North East, Isiolo County to the North, Lamu County to the South East and Kilifi County to the South. The county lies between latitudes 000°53' and 200°41' South and longitudes 38025°43' and 40015' East. The county has a total area of 38,862.2 Km² and covers about 35km of the coastal strip. The major physical feature in Tana River County is an undulating plain that is interrupted in a few places by low hills at Bilbil around Madogo and Bura divisions.

The land in Tana river generally slopes south eastwards with an altitude that ranges between 20m to 200m above sea level at the top of the Bilbil hills. The most striking topographical feature is the River Tana that traverses the county from the Aberdares in the North to the Indian Ocean in the South covering a stretch of approximately 500km.

Besides the River Tana, there are several seasonal rivers in the county popularly known as lagas, which flow in a west-east direction from Kitui and Makueni Counties draining into River Tana and eventually into the Indian Ocean. The river beds support livestock as well as

wildlife during the dry season since they have high ability to retain water. River beds are most appropriate sites for shallow wells, sub-surface dams as well as earth pans.

3.30. Demography

According to the population census of the year 2012, projected population for the county is 262,684 with 131,544 being female and 131,140 male. There are only two areas categorized as urban centers (Hola and Madogo) with a total projected population of 36,285 persons. The settlement patterns are random but are concentrated close to the river.

3.40. History and Ethnic Relations

People of Tana River County

The dominant ethnic groups are the Pokomo, many of whom are farmers, and the Orma and Wardey, who are predominantly nomadic. Other tribes include the Waata and Boni who are culturally Hunters and gatherers, the Wailwana /Malakote and the Bajuni. It should be noted that the area is home to other Kenyan ethnic groups. These include the Luos, Kambas, Taitas, Giriamas, Kisii and Kikuyus and Somali immigrants among others. Hola the capital town of Tana River was the site of a detention camp during the British colonial rule.

4.00. WATER SOURCES

Beside river Tana, there are also other sources of water. These are four seasonal rivers, 67 pans, 225 shallow wells, four water pipeline schemes and 21 boreholes. While demand for water in the County is estimated to be 4340m³ per day, the supply level is at 2500m³ leaving a deficit of 1840m³ per day.

The budgetary allocation for the department of water was Kshs. 150 000 000 for FY 2013/2014, Kshs 130 000 000 for FY 2014/2015 .The budgetary provision majorly covers rural areas to about 90% of the total.

The Water Department is divided into three divisions; rural, urban and irrigation. The urban and peri- urban areas are mainly supplied by the Urban Water System through Tana Water and Sanitation Company (TAWASCO). Settlement in the County is in form of small towns along the river bank which makes access to water possible .Being vast, supplying the hinterland is both extensive and expensive to distribute the pipeline. Laying a pipeline over 50km costs to the tune of Kshs. 150 000 000. The Rural Water System includes Madogo Water Supply, Bura Water Supply, Tana River Water Supply, Hola Water Supply and Tana Delta Water Supply.

5.0. CURRENT PROJECTS

Management of the Tana River basin is set for a revolution with the launch of a water infrastructure project aimed at better water management and climate change adaptation.

The Tana River - one of two chosen in Africa - is targeted under a four-year programme dubbed the 'Water Infrastructure Solutions from Ecosystems Services Underpinning Climate Resilient Policies and Programme, or simply 'WISE-UP to Climate'. The other river is the Volta in Ghana.

WISE-UP to Climate aims to showcase use of natural infrastructure as a 'nature based solution' for climate change adaptation and sustainable development.

The project, the first of its kind in the region, will develop knowledge on how to use built water infrastructure like dams, levees, and irrigation channels, as well as natural infrastructure like wetlands, and floodplains, for poverty reduction, water-energy-food security, biodiversity conservation, and climate resilience.

The project is funded by the International Climate Initiative of Germany's Ministry of Environment Nature Conservation, Building and Nuclear Safety. It's co-ordinated by a global partnership that brings together The University of Nairobi's African

Collaborative Centre for Earth Systems Sciences (ACCESS), Ghana's Council for Scientific and Industrial Research (CSIR), the International Union for Conservation of Nature (IUCN), International Water Management Institute (IWMI), and others.

Clashes between pastoralist and farming communities in the Tana delta region, largely linked to a scramble for resources within the basin, have led to the death of dozens and uprooted thousands from their homes over the years.

A history of poor land use and management in the area hasn't helped much either, pitting residents on one hand, and both local and foreign investors on the other. This has seen poverty remain widespread in the Tana basin- with levels as high as 63 per cent- despite the area's wealth in natural resources.

Different interests along the Tana River basin, including use of water for human consumption, production of hydroelectricity/hydropower, irrigation, agriculture, and conservation, compete for the same water resource, hence the need for the basin's proper management. The Tana basin occupies over 138,000 square kilometers and serves over 12 million people across 20 Counties. The Volta on the other hand covers 417,000 square kilometers and is shared by six countries including Ghana, Burkina Faso and Mali.

The coming of devolution has led to increased settlement in the County; in fact it more than doubled, especially in urban areas. These were new employees and businessmen who had taken advantage of opportunities that followed the devolved government. Subsequently, this did put pressure on the water supply. The County government responded to this phenomenon by modernizing the Hola Water Supply System and establishing Charidende Water Supply System and Garsen Water Supply System. The County government also bought and distributed 10 tanks of 10,000 liters, drilled and equipped over 15 new boreholes.

Community managed water projects in the County include Wenje borehole, Olesunrea borehole, Kone borehole, Kalami borehole and Wema borehole just to mention but a few. These are projects that were funded by NGOs in collaboration with local communities. To run these projects, each family pays Kshs 100 per month so as to access the precious commodity.

6.0. SANITATION

This is basically handled by the public health officers who fall within Water, Health and Sanitation department. The County government is yet to formulate a Bill to enforce sanitation in the

County. Garbage collection is non-existent. There used to be one lagoon (shallow pit) at Hola Hospital but it broke down and it's yet to be repaired. The County government has resorted to using lorry exhausters (honey suckers) to collect and dispose of raw waste. As much as public health officers enforce residents to dig pit latrines in their homes, the irony is, the people are not willing to use them- preferring the bush.

7.0. IRRIGATION

Large scale irrigation is taking place at Bura irrigation scheme and TARDA(Tana River Development Authority) .They also have small scale irrigation of about 40 000 acres that is managed by land irrigation office and agronomists .During the good old days of KICOMI(Kisumu Cotton Mills) , the irrigation schemes used to supply cotton to the firm. Currently, their major crop is maize. However, glut in maize production has negatively affected the market price thus demotivating the farmers.

8.0 PARTNERS IN THE WATER SECTOR

Hon. Okuku: Water as a sector has attracted several partners in the County. These include government agencies like Water Service Trust Fund through Coast Water Services Board

that is currently funding Hola Water system treatment plant to the tune of Kshs. 100 M besides providing Kshs. 70 M annually for payment of electricity to TAWASCO. It is worth noting that the County government supplies about 100 tons of Aluminum sulphate for treatment of water annually. Water from river Tana is of high supartability (highly muddy). In fact, the water is 100 times world water opaque level. Others partners are Kenya Coast Development Programme, German Agro Action, Good Samaritan Puss, Team and Team, the Catholic Church through the local Diocese, Red Cross, International Medical Corps, and UNICEF , Nature Kenya among many more.

Through Private Public Participation, the County government is in the process of setting up a plant for making spare parts for boreholes and irrigation structures for local consumption and sale to other counties and possible export.

9.0 CHALLENGES

Hon. Okuku: The Committee was informed of a myriad of challenges the sector faces in Tana River County.

- i) The cost of water treatment is expensive due to high level of silt in the water.
- ii) Poor revenue collection. The water system is widely spread due to the sparse population of residents who are spread out in the vast County. Because of high poverty level, they are not able to pay for the commodity but still want access.
- iii) Under- capacity of the service provider. Due to resource limitation, they cannot buy vehicles and motor bikes for the field officers to be able to respond to technical problems and run general operation.
- iv) Lack of clear legislation on water though they reported that a Bill was in the pipeline.
- v) The county has a Strategic plan and a work plan, however a Water Master Plan is lacking.
- vi) Poor infrastructure- due to poor road network, when it rains one can barely move for more than 200metres. This slows down operation.
- vii) Frequent cycle of disasters- the County oscillates between droughts and flooding. While drought leads to scarcity of

2016 SIAYA COUNTY ASSEMBLY DEBATES

food and water, flooding literally grinds to halt transportation in the County making roads impassable while displacing residents. Actually, in December 2015, the County had a total of 120 IDP (Internally Displaced People) camps displaced by flooding.

- viii) Continuous changing of the river course. Tana River keeps changing its course thereby causing flooding, displacing people, destroying crops and property.
- ix) Drilling of boreholes yields at a depth of 150 meters and wells at 30metres which is expensive. The highest water yield in the boreholes is between 60-70m³ per hour while the lowest is between 6-7m³ per hour. In Siaya County, yields are at 90m.
- x) Cash- flow problems – like many Counties, it takes them long to get money from the IFMIS thereby delaying their operations.

10.0 OBSERVATIONS

Hon. Okuku: The Committee made the following observations:

- i) The source of energy for pumping water in Tana River County is a diesel powered generator which is very expensive to fuel and maintain.
- ii) The water is very muddy thus requiring a lot of chemicals for treatment and the same mud frequently clogs the system causing high operational cost.
- iii) The water system which is in place was established in 1960. It's therefore very old, dilapidated and in dire need of a complete overhaul.
- iv) The population has increased exponentially which has created increased demand for water against low supplies.
- v) The topography of the area makes it expensive to set up a raised reservoir tank, thus they have no raised reservoirs.
- vi) The sand harvests in Tana River add value to the commodity by making blocks for sale and this improves their income.

11.0. RECOMMENDATIONS

2016 SIAYA COUNTY ASSEMBLY DEBATES

Mr. Speaker, Sir, the Committee came up with the following recommendations:

i)) The County government of Siaya should explore ways of partnering with donors in the sector to ensure that clean water reaches every household in the County which currently is at 36% against the national status at 58%.

ii) The sand harvesters should be empowered by the County government of Siaya to add value to their product by making and selling blocks at the source.

iii) The County government of Siaya should install solar power to water projects in the county to lessen the burden of paying for hydroelectric power.

iv) Siaya County government should increase its acreage under irrigation from the paltry 200ha to a total of 32,800ha based on the 2013-2017 CIDP through actual irrigation activities such as construction of new irrigation infrastructure and reviving the existing irrigation schemes.

v) The County government of Siaya to facilitate technical, customer service and financial audit of Siaya Bondo Water Service Company (SIBOWASCO) so as to identify gaps and streamline production and distribution of water.

12.0. FINAL SUBMISSION

Hon. Okuku: On behalf of the Committee, and pursuant to Standing

Order 192 (e) and (g), it is my pleasant duty to Table in the Committee report on Benchmarking visit to Tana River , this...6th,day of July 2016, and urge that the report be adopted by this Honourable House as I call upon Hon. Were to second.

Hon. Were: Seconded.

Temporary Speaker (Hon. Abayo):Hon. Members, allow me to propose the question that this House adopts the report of the committee on water, environment and natural resources benchmarking visit to Tana River County on management of water as a natural resource, laid on the Table of this House today Wednesday, 6th July, 2016.

Hon. Okuku: Please, allow me to Move a Motion that this House adopts the report of the Committee on Water, Environment and Natural Resources on their Benchmarking Visit to Tana River County on Management of Water as a Natural Resource, laid on the Table of the House today, Wednesday, 6th July 2016.

Hon. Minami: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to be the first person to make a comment on this report. I am quite surprised. We have just debated on a report by the Implementation Committee and the whole House was in agreement that it was rich in terms of content and objectivity. The report we are now discussing doesn't have an objective on why the Committee left Siaya and risked their lives all the way to Tana River County. The Implementation Committee report indicated why they went

to Nairobi for benchmarking; but these people have not told us in their report why they left Siaya.

Hon. Munda: Point of order, Mr. Temporary Speaker, Sir!

The Temporary Speaker (Hon. Abayo): What is it, Hon. Munda?

Hon. Munda: Mr. Temporary Speaker, Sir, which people is the Hon. Member referring to?

(Laughter)

The Temporary Speaker (Hon. Abayo): Hon. Booker, can you be specific and precise in your reference.

Hon. Minami: Thank you for your indulgence, Mr. Temporary Speaker, Sir. I meant the Members of the Water Committee. When you look at the literature in the report, it clearly shows the lack of capacity or knowledge in either the Committee clerk or the membership. It does not even recognize the role that has been played by various leaders in this Assembly in making sure that this trip was a success. It is common knowledge that you must appreciate those who have helped you meet an objective. Seemingly, because they had no objective, then there was nobody to be appreciated.

From the challenges to observations, this report talks about Tana River County, but when you go to the recommendations, it talks about Siaya County. This makes me wonder the correlation between challenges found in Tana River County and what is being recommended to be done in Siaya. There is no connection at all!

Mr. Temporary Speaker, Sir, in a layman's language, benchmarking means going to compare what is done in somebody's home with what you are doing in your home.

Hon. Ngure: Point of order, Mr. Temporary Speaker, Sir!

The Temporary Speaker (Hon. Abayo): Yes, Hon. Ngure. What is your point of order?

Hon. Ngure: Mr. Temporary Speaker, Sir, the Hon. Member criticizing this report has the right to do so; but we would like him to be fair to the Committee that went to Tana River County. As he has rightfully said, the essence of benchmarking is to compare what happens in Tana River County to what happens in Siaya County. The recommendations that we make are not for Tana River County; we are making recommendations to Siaya in relation to what we have seen in Tana River.

The Temporary Speaker (Hon. Abayo): Let us allow Hon. Booker to make his submission. The Mover should be able to pick all the issue and respond accordingly.

Hon. Minami: Mr. Temporary Speaker, Sir, this report talks about Tana River County; it does not talk about the water problems in the County of Siaya. It talks about the number of irrigation projects in Tana River County and their costing, but it doesn't compare it with Siaya. It doesn't tell us the number of irrigation projects in Siaya! There is no comparison! You benchmark to improve on what you have! This report simply belongs to the County Assembly of Tana River! It is in the wrong place.

You went to Tana River County, what background information did you have?

The Temporary Speaker (Hon. Abayo): Hon. Booker, I did not go to Tana River County.

(Laughter)

Hon. Minami: I was not making reference to you, Mr. Temporary Speaker, Sir; I am talking about the Committee. In fact, from the stories we got from them, they almost lost their lives there due to what they underwent during their journey. I think your Office should never allow any other Member of this House to go through whatever this Committee went through.

As I finish, what were the challenges in Siaya County that made the Committee travel all the way to Tana River County? What were they going to look for in Tana River so that improvements can be made in Siaya? What were the expected outcomes of that benchmarking? The Committee doesn't tell us that! Look at the report by the Implementation Committee; they were very clear on their mission to the National Assembly.

From where I stand, Mr. Temporary Speaker, Sir, this is a report that should not even have been laid on the Table of this Hon. House. At times before reports are laid, Mr. Temporary Speaker, Sir, your Office should go through them to check on their content with a view to finding out whether they meet the threshold of debate in this Assembly.

Thank you, Mr. Temporary Speaker, Sir, I oppose it in Toto.

The Temporary Speaker (Hon. Abayo: Yes, Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Mr. Temporary Speaker, Sir. I am very much happy that the Committee on Implementation report was unanimously adopted by this House. In that background, you realize that one of the recommendations captured in the report touches on the building of technical capacities of not only the Hon. Members, but also the technical staffers. It was also

captured that Assemblies are a new creation and they have to start from that embryonic stage which we are almost abandoning to a point of crawling and then finally coming out of age. To that extent, I stand to excuse the deficiency in terms of the language of the report.

I am very happy that we have been told what happens in Tana River County. There are issues of flooding in Tana River County and we can relate to that. What they saw in Tana River makes us think of one thing; how do we manage our water resources? With proper management, the Ndanu Water Falls in Siaya can be used to irrigate the entire Siaya at sustainable levels. The turbines we have can pump water to the highest topographies and we can be able to take water to every place by way of gravity.

Tana River County challenges us to come up with exploration that are not only cheap, but are in themselves sustainable. I am even happy that they have pointed out the cost of doing pipelines. This translates that for every 1 Km we already know what it takes, but the good thing in Siaya is that it is heavily populated. We have got a network of roads which is lacking in Tana River, so there is no hardship of laying those pipes in Siaya because we can easily do it along the roads. Like in my area, in 2015/2016 there is an allocation for water and network supplies, so from that we easily know that if we use the little we have, we can easily go forward.

In a nutshell, the report itself tells us that in future we wouldn't be in need of having Siaya SIBO or if we have it we forget about the current scope, it is all about a little bit of our CIDP as concerns water supply. Is this aspect captured in the project as one that can bring water to every

doorstep so that we move away from SIBO or we mainstream the work of SIBO as to capture the Siaya County? This report is very valid; it captures the acreage of the issue of management of water resources. This is a valid report!

(Applause)

The issue of bringing in a public - private partnership in the report, we have seen how Tana River has brought on board several partners. Is it not possible in Siaya? This is a wakeup call to even the Committee of Implementation because these recommendations can be easily implemented. They can easily be followed up with credible outcomes. I support.

(Applause)

The Temporary Speaker: Yes, Hon. Kowii.

Hon. Owii: Thank you, Mr. Speaker, Sir. As you know the issue of water touches life because out of almost everything that we have on God's created earth, the first thing that we normally make contact with in life is water. When you wake up the first thing you do is either take a bath or wash your face. Anything that you do is controlled by water. I want to say a few things that I really want to support this report.

(Applause)

There is a lot because we are leading here but we have not actually been out, our outreach is limited and this one is bad on our side. When our brothers and sisters go out, maybe for fact finding and engagement with other colleagues like they went to Tana River, we can now see

quite a number of things that are failing here and yet Siaya has a lot of potential. If at all we could come out to implement quite a number of things that are suggested in this report, we shall find that Siaya can easily change within the shortest time possible in terms of economy.

Even our budgetary allocation for water in this area is quite lean. If you compare what Tana River as a County are putting for water you will find that our budgetary allocation for water is very low and for sure there is a lot you should do particularly on pumping some reasonable money for the department of water so that we can realize quite a number of things that we have identified as challenges.

I have heard Hon. Oriaro talk about sinking of boreholes which are failing. It is true they are failing because if at all in a borehole people are doing ideological survey, then the survey tells you that you will get water if you reach 200 meters and you try it at 100 meters then you say our money is over and this is how far we can go. Where then do you get water and you have not actually reached the required depth? I want to say that we need to put some reasonable money in the budget for water as a department so that we can get a lot more than what we have now.

Secondly is irrigation. Personally I see Siaya to be a very potential area for irrigation and irrigation is the only venture that can help Siaya out of this poverty. Each and every area in Siaya has potential for irrigation, for example the southern part of Siaya, the area where I come from, we are surrounded by Lake Victoria, a fresh water lake, we do very little in terms of irrigation because there is no serious support that is put here.

I want to challenge this particular House that there was a time when the

2016 SIAYA COUNTY ASSEMBLY DEBATES

Budget Committee and the Executive brought to us reasonable allocation for irrigation, we decided to shoot that one down here in the Assembly. We said that we don't need it and that we don't have that kind of money so if you want to do benchmarking and you saw those two things. It is not very practical because even leadership, that is Members of this particular House, were not even willing that we should discuss such kind of thing. They want to lead in that traditional way that we do it like our grandmothers did it. And that is one way we can always lead in poverty forever.

I saw something so unique in the outreach of the people the Tana River people. These people are partnering with so many partners and that one is the best and cheapest way, a government can give you even outside the Country's budget leave alone the Counties budget. It is possible. There are times when even his Excellency the Governor goes out with some people, I don't know for what exactly! They go out there and people come back and you don't even see any change for example that we are trying to partner even with one country for purposes of improving our water systems in the County.

A time has come when we should actually target pushing water close to our people, maybe through partners or through our own budget such that the furthest a woman can go for water is ten steps. In some places I don't want to mention because unfortunately some Members that are representing those places are here and they will not be very comfortable. Some ladies are walking 10 km to and fro and you see the man hours that are wasted, just to draw 1 jerry can of water. And this is water that is supposed to be used in a

family as it is just as raw as it was drawn from a river.

Time has come that we need to create a wakeup call for this Executive that they should also come up and do a lot of outreach and see how best they can bring on board other characters and players and partners that would make us achieve our goals more particularly on provision of water. This is what is seriously wanting if you go to a place like Bondo and I am sorry quite a number of our friends that are representing the interests of our people in Bondo are seated there, very Hon. Members. Believe me Bondo can go without water for a whole month to an extent that in that kind of urban center, people go to the river, they draw water and bring and sell at Kshs. 30 or Kshs. 40. Very sad, Hon. Members from Bondo!

It is happening simply because of the kind of planning that we have in Bondo. Anything that we need to bring on board which can change the life of a people should not be opposed unnecessarily like we normally oppose in this House. Water is life the day we will actually discovered that one we will change the life of our people.

If you go to Uyoma, you will never see more particularly the area that I represent, Hon. Apiyo Apiyo and Hon. Olasi represent, that is the truth. Our young men are now creating employment along the lake by doing irrigation. No young man like I see it when I move around in this County, that when a young man puts up the "lion" they normally just use grass thatched houses that one is almost zero in my place because you find that each and every young man in my place is busy doing serious irrigation, what they are missing is the support of this Government. I want to thank the

2016 SIAYA COUNTY ASSEMBLY DEBATES

chairperson of water very much because we need even to relook this particular paper, this one can bail Siaya out of this poverty. I support.

(Applause)

Hon. Speaker: Yes, Hon. Were.

Hon. Were: Thank you, Mr. Speaker, Sir. This is the best report that we have had this afternoon.

(Applause)

We went to Tana River with your terms of reference and we have an experience as country men and women. Ask yourself the accessibility of water as a resource, only 14 % of our country men and women have access to water as a resource. Under this 14 % to whom water is available, how are they using it efficiently? What we call water use efficiency.

There are also issues to do with supplies management, facilities that are available, the water supply provider and if they are able to work for us. Our choice of Tana River as a County was strategic. We were not on a picnic walk and that is why this evening I can attest that we have the energy and the focus to move and make this County a better place.

Best practices are borrowed from elsewhere and we borrow them to use them and that is why this first parliament is here purposely to make an impact. You do not run away from this kind of report because you want to be noted that you are working. The recommendations are very clear, you don't need a binocular to go through the recommendations and be satisfied. It is open, clear and well written; precisely so for those who have the

capacity. I would request this House that we work with our County men and women and see the need and the desperate state that they have, engage Motions in this House seriously without being seen to be toddling. I am on my feet to support.

Hon. Andiego: Thank you, Mr. Temporary Speaker, Sir, for the opportunity. As stated by Hon. Owii that water is life, water is a very important component of life and the County Government has never taken it as important as it should. Today, I want to assure the Committee on Water that I am supporting this report because it is a starting point. When you look at some of the observations which are in the County of Tana River, they look the same to what we have in Siaya.

For example in page 12, observation 3 and 4 that state that the water system which is in place was established in 1960, I was told that the one in Sakwa that connects Central and South in the so called Nyangoma division was also established in 1973 when I was born. Nothing overhaul has ever been done to them because of the negligence by the former regime. That observation is key and it should also state what we are going through.

Another key observation is the population, the population of 1973 is not the same as the population we currently have. The population is higher than before and seemingly no consideration has been put in place to factor in the growth of population. I am requesting the Committee that they should put the Executive to task and check on these things and indeed they should know that water is life and some things should be done. On issues of allocation, many of us and even our Executive have never put enough money

for water. The other day I told the CECM of lands that at times when we invite them to the Assembly, they feel as if people are going to fight which shouldn't be the case.

There comes a time when we should be friendly and it's not only that our Assembly should invite the Executive but also they should invite the Assembly. During the budget making process we should be one so that when it reaches the time the Committee of Assembly and Executive are meeting, they meet on things they know and someone can defend. I am requesting the Chair of Water, Hon. Okuku that this thing is key and we need to be one and allocate enough money for water. Gone are the days when our women carried buckets for long kilometers in search of water.

Another thing that is lacking is the technical personnel; I would request that in the next coming financial year there should be benchmarking for the Committee on Water. Next time you should visit Kiambu and other parts of Central and you see how each and every corner is connected with water.

The Temporary Speaker

(Hon. Abayo): Hon. Andiego, kindly conclude.

Hon. Andiego: Thank you, Mr. Temporary Speaker, Sir, I am concluding. In recommendation number 1; that the County Government of Siaya should explore ways of partnering with donors. If you check the number of times the Executive has moved out from this County to other parts of the world, it's seconding H.E. the President, Uhuru Kenyatta. We have never seen any fruits borne after those trips. Number 2, I have a place in my Ward known as Got

Kopolo which is not functioning because there is no electricity or generator and even if the generator is brought it has no fuel yet the money used to buy the generator can be enough to put up solar to pump the water.

Last but not least, the County Government of Siaya should empower the people to add value in the production and making of blocks through our sun and water from the lake. Why should our people depend on fishing only and yet they can pump that money into making blocks and selling the same? We are putting up a very big building and the materials come from Kisumu, done by Asians, meanwhile our people are dying in the Lake while fishing and returning home with nothing. Why don't we empower them so that these blocks can be bought from them? I stand to support this report.

Hon. Ochieng: Thank you, Mr. Temporary Speaker, Sir. I would like to thank the Almighty God for having granted this Committee journey mercy in Tana River. We know how dangerous that place is. I also thank Members of that Committee and the Chair for having gathered the courage to go and help Siaya learn some good practices that are done in Tana River. As a Member of Agriculture, we know very well that minus irrigation in this County, we shall be moving nowhere and we shall be lacking food and that might cause us a lot as a County.

2016 SIAYA COUNTY ASSEMBLY DEBATES

It has been clearly indicated here as a recommendation that the County Government of Siaya should increase the acreages in which irrigation is done. This is also a job creation opportunity that when we add the acreage of irrigation we shall have created job opportunities for our Youth who are just idling at home.

As much as there are a lot challenges, our able Committee thought it very wise to just choose what is good for Siaya County. One thing we must also learn from Tana River is that they are all determined to provide water for the residents. The difficulties have been stated but this has not stopped them from providing water to their residents. I can take an example of Mageta Island or the entire West Yimbo, where I represent. We have got plenty of water there and now information is brought to us that the use of donors and partners is one way of developing a County.

I was also happy with the observations, if you look at page 12, they are all positive. Lastly, the recommendations are really convincing, if we adopt this report, we should look at the recommendations and we push the Government to implement and put in place all these things. If we can push this document to go through for implementation then the benchmarking exercise will be very fruitful to us.

Mr. Speaker, we have a lot of water catchment areas but not safe for use and if at all the Siaya

Government can also do as it is done in Tana River, I think our community will get enough and safe water for both domestic and commercial use. I want to believe that recommendation number one of County Government of Siaya is to explore partnership with donors to ensure that clean water reaches every corner of the County which is currently at 36% against National status of 58%. This is something that we expect County Government to implement, for one in Mageta here we are working on water system supply that is funded by the Western donors which is also a partner to Kenyan Government. If at all the Siaya County can follow suit then we can achieve the dream to extend the water lines to the Households in Siaya.

On recommendation 2, on the empowerment of the sand harvesters which will create more jobs for our people back at home, second to that it will also help us in protecting the environment and as we know, if you walk around people are building with bricks which in the end leads to destruction of trees as well as compromising tillable land. This does a lot of damage to our environment and if only the County Government would come out to support the Sand harvesters, then we shall be creating the more jobs as well as avoiding the cutting down of trees for various purposes.

Hon. Speaker: You should be winding up!

Hon. Ochieng': I am almost finishing, I want to believe that water is enough as I can see in front of me here there is plenty of it in bottles and I hope

that as I seat someone will assist me with a bottle given that am supporting these report. Thank you.

Hon. Ngure: Thank you, sometimes it's scaring when you have the first paper on Floor criticized while this is a very beautiful report that if given opportunity to other Members who have read and thought about it will bring out a nice debate as well as a good discussion. Several Members who have spoken after the first Member spoke can now see what we saw in this file.

First, I agree that it was a risky trip to Tana River but again it's Kenyans who live there and in fact when you go to a place like that then you see the need to appreciate where we are coming from, that is Siaya County. All the way as we passed through Mwingi, Garrisa to Tala before entering Tana we saw how people are suffering as there were women taking care of their animals with Jerri cans on their heads and I believe that they were in search of water such that when they reach a point where there is water, they fetch for themselves as their animals also drink from the same which was a very distressing sight.

However risky it was, if I personally would have not taken the risk, then I would have not known what other people go through and how much effort they are putting in place to better their lot. As we reached Hola, things were better than the previous place and we could see the kind of effort that County Government is putting in place to better their lives in terms of water supply. It was not in vain that we took this trip because we came back with very valid observations as well as recommendations, those which if our County puts in place then we shall be further than Tana River. You don't always

have to compare yourself with worst and I think the ideal situation is when one visits both the best and worst. Some of us had the rare opportunity to visit Israel and there was a lot of work involved. If the visit to Israel was to encourage us to do better for our Country then we can do more given that their Land is dry and larger than ours and if that can happen then eventually even Tana River will change as well as Siaya.

The Government of Tana River is doing much more than Siaya while Siaya can do better than them and it's a good thing for me that we went to Tana River and was able to come up with wonderful recommendations.

We have gone as far as knowing which kind of water storages and kind of systems to use when developing the water systems. When I hear people quoting that they were born in the 60s and 70s while some of us were born in the 40s, then you will know that we have seen a lot, no wonder Jaramogi Oginga was once very saddened when he realized that people were misusing the diesel that they were given to use to pump up water from River Yala and suggested for a different mode for pumping the water. From the time of diesel to now solar, we are able to see that much has taken place, but we still need to do even more.....

Hon. Speaker: Hon. Pamela, you should be concluding.

Hon. Ngure: Thank you; I was carried away by the people who have come up to support this report because they can see how important and valuable it is to our County of Siaya as we can now compare what we saw in Tana River with Siaya and try to implement them given that we are much better placed than them. Thank you.

Hon. Speaker: Hon. Aneme!

Hon. Aneme: The essence of Benchmarking is to learn and in order to do so you must visit and compare yourself to a place that is doing better than you or vice versa. When the mover will be replying, I would want him to explain how Ghana, Burkina Faso and Mali are connected to Tana River because I could not see that being explained explicitly in the report.

I am supporting this report because there is a lot that warms my heart and as much as it is said that Tana River are doing better than us as Bura, Hola, Tana irrigation schemes and many other more schemes covering up to 40 hectares of land. From these we can learn a lot and utilize the many water catchment areas; i.e. River Nzoia, Lake Victoria and River Yala only if the Executive was willing to adopt the recommendations to provide adequate water supply to our people.

Siaya County Government is still a young County only born in the year 2013 while everywhere in the world Israel has been known and the good ideas that we acquire from them is never implemented. I think that after adopting this report we must come up and insist on the implementation. I was very much impressed that these same people are the ones who were supplying Kikomi in Kisumu with cotton, but poor management lead to its closure and now they have turned to maize planting.

The other thing that I would like to say is about donors that even as much as the Executive and the Assembly has been making overseas travels, we are going to close this Parliament without even a single donor supporting Siaya County referring to all the natural resources that we have, it's very pathetic. So, again that is one area that the Committee benchmarked on that

the use of funds from donors is to develop the County.

Hon. Temporary Speaker: Hon. Zilpa Omondi!

Hon. Omondi: Thank you, Mr. Temporary Speaker, just allow me to say one or two things, I will be very brief. I want to appreciate the fact that this Committee states very clearly that people in Tana River are extremely poorer than us. But the good side of them is that they are doing something for themselves and that is why they have struggled to get partners and donors to assist them in their irrigation projects. Siaya is not that poor, but we remain poor because of our own means.

I happen to be in the Agriculture Committee and Agriculture is related to irrigation. I think in this House there are Members of the Budget Committee, there are things that we recommend from the Agriculture Committee that should be put in that Budget but anytime they are presented for consideration, they are shot down by the Budget Committee before they see the light of the day. I think it is high time we had a bigger picture than what we have.

Occasionally, I have heard Members saying, if there is going to be irrigation in Uyoma it has also to be in my Ward and that Ward probably doesn't even have water! It is not even near Lake Victoria! I believe that if we had a full irrigation system in Uyoma today, I would be buying vegetables very cheaply in Siaya. But because they have to come from Western Province, they are very expensive and I may not be able to afford! So, next time and I have heard a saying during our discussions here, our contributions, that the County Government; the County Government is

2016 SIAYA COUNTY ASSEMBLY DEBATES

both the Executive and the County Assembly. We cannot blame the Executive and excuse ourselves.

The budget cannot go through if we say NO and we say adequate money must be put into agricultural projects for irrigation. That one has been a problem to us, we don't want to accept it, and we don't see the bigger picture. We come up with big things, wonderful ideas and I go back to the Implementation report, it recommended that there should be some informal structure, meetings between the Executive and the Assembly. We have so much to share with them that would bring a big change in this County but we don't have the forum, everybody wants to guard their ground at the expense of the ordinary citizen.

It is high time that the report of Implementation Committee is implemented, we must talk to the Governor, he has to talk to us, we have to share ideas because so many times we don't know what he has gone to do, he has never shared these things with us, I think we need to share if we have to bring progress in this County. Otherwise I support the report, thank you.

(Applause)

Hon. Temporary Speaker: Hon. Olasi!

Hon. Olasi: Thank you, Mr. Speaker. I am coming to learn that being a last born is so bad.

(Laughter)

I caught the eyes of the Hon. Speaker very late. I wish that next time you consider me when considering others like Hon. Owii. I shall be very brief and direct to my point.

If there is a report that I would wish to be implemented the way it is, then it is this one. If there is a Committee I would say has done a good job, then it is this one. We go back to the recommendations, why do we have trips outside our County? So that we compare and contrast the issues. The recommendations directly concern our County which is Siaya, that if we do one, two, three, then Siaya will move from point A to point B.

Going through the background of Tana River alone is enough for you to extract objectives and the challenges that we have. I appreciate this report but allow me to talk about recommendation number two, the sand harvesting. We know the consequences, Hon. Andiego will tell you, Hon. Aneme and Hon. Owii as well. If not checked, the lake shore like in my place is horrible. So, as much as we adopt it, we need to look at this item.

Last but not least, because I said that I am always direct to the point and that is me, Hon. Olasi. A County which cannot even partner with itself...

(Applause)

I come from West Uyoma; I represent the people of West Uyoma. As we are speaking here, the hell has broken loose in West Uyoma, why? Because of water, Hon. Pamela will justify to that. The main reason, the County Government, we have the CEC of West Uyoma Water and Sanitation Company, the Company has around 12 employees, but you know our people, they like using water but the payment can be a problem at times. The County Government of Siaya should chip in something to help our people so that the resource can accommodate everybody.

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Applause)

I am meant to understand that sometime last year ---everybody is crying for water, in fact, I am sorry to say and this is what they are saying, that Hon. Olasi has ---the County Government which is to chip in something but all of a sudden, I have withdrawn their salaries so that they suffer. We go back to Implementation where Hon. Oriaro is, look at Tana River, how many partners do they have? This is the concern of West Uyoma, that the basic commodity is water and they cannot afford but here comes a Government that has executive projects that we are not to question but I am now questioning, how can this Government supplement in one way or the other so that the people of Siaya County, if not West Uyoma, afford this basic commodity? I rest my case, thank you, Mr. Speaker.

(Applause)

Hon. Temporary Speaker: I am going to invite the mover to reply.

Hon. Okuku: Thank you, Mr. Speaker, Sir. First and foremost, I want to appreciate Members of this Hon. House for taking their time because it is almost 6.00pm and they have sat to debate this report. Secondly, I want to say that, almost every Member who stood up and spoke applauded the Membership and the work the Committee has done except one who had a dissenting voice. Unfortunately, he is out but I want to reply that he could read page 4, it clearly talks about the challenges faced in Siaya County.

To do a comparison, you compare and contrast and that is why we decided to go to Tana River because even if you have

attended your son's graduation ceremony with a PHD, you cannot avoid attending your daughter's graduation ceremony who is graduating to be a hustler because that is what she has decided to take. This Committee had travelled to Israel and other Countries and it would be bad if we can avoid Tana River because of the risk involved and yet our own people whom we represent are residents of that area.

I want to say that I appreciate Members because they have supported this report and I urge them to help us adopt it and for the Executive to Implement and improve in our weaknesses. One area that I want to talk about is the capacity of the clerk which was raised by the first speaker. I cannot discuss the capacity of this clerk here or any clerk because as you know, we have a Board which deals with the employment and they look into capacity severally and it is not our mandate to discuss the capacity of a staff in this forum. The capacity of Membership, I strongly believe that we have men and women of high integrity and that is why they were brought in this House and they are up to the task. Majority of them are Chairs of different Committees.

(Applause)

For example, we have Hon. Were who Chairs Health, Hon. Munda Chairs Trade, Hon. Agoko Chairs Agriculture, so if one asks about the capacity of Members of this Committee then I think he never read this report. I want to rest my case by urging Members to adopt the report. Thank you.

Hon. Temporary Speaker: Hon. Members, allow me to put the question that this House adopts the report of the Committee on Water, Environment and

Natural Resources on their Benchmarking visit to Tana River County on the management of Water as a Natural Resource laid on the Table of this House today Wednesday, the 6th July, 2016.

(Question put and agreed to)

Hon. Temporary Speaker: Next order!

MOTION

ADJOURNMENT

Hon. Temporary Speaker: Hon. Members, you are all aware that we are moving to a short recess, I wish to state that this House adjourns for a short recess and will resume its Sittings on Tuesday the 19th July, 2016, at 2.30pm.

The House rose at 6.00 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 26TH JULY, 2016

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

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

PRAYER

**COMMUNICATION FROM THE
CHAIR**

REGISTRATION FOR GAMES

Hon. Speaker: Hon. Members, there is a list going round; you should register in your games of preference.

Next Order!

NOTICE OF MOTION

REPORT OF THE COMMITTEE ON
LANDS, PHYSICAL PLANNING, SURVEY
AND HOUSING ON THEIR BENCHMARKING
VISITS TO NAKURU, KIAMBU AND NAIROBI
COUNTIES

Hon. Otare: Thank you. Mr. Speaker, Sir, permit me to give notice of the following Motion:-

THAT, this House adopts the Report of the Committee on Lands, Physical Planning, Survey and Housing on their benchmarking visits to Nakuru, Kiambu and Nairobi Counties on Development Control and Geographic Information System, laid on the Table of the House on Tuesday, 19th July, 2016.

However, Mr. Speaker, Sir, due to the fact that most Hon. Members have only seen the document right now, I kindly request the House to allow me move the Motion tomorrow morning. This will give Hon. Members ample time to go through the report. Thank you.

Hon. Speaker: So, you will move it tomorrow morning?

Hon. Otare: Yes!

Hon. Speaker: Agreed. Next Order!

**STATEMENT
NOTICE PAPER**

Hon. Owii: Mr. Speaker, Sir, pursuant to Standing Order No. 36, allow me to take the House through our tentative business from Tuesday, 26th July, 2016 to Wednesday, 3rd August, 2016.

It is notified that the House Business Committee, at their last meeting, approved the following tentative business to appear in the Order Paper for the next two weeks commencing from Tuesday, 26th July to Wednesday, 3rd August, 2016.

Tuesday, 26th July, 2016 – Report of the Committee on Lands, Physical Planning, Survey and Housing on their benchmarking visits to Nakuru, Kiambu and Nairobi Counties.

Wednesday, 27th July, 2016
(Morning Sitting) - Report of the Committee on Tourism, Wildlife Conservation and ICT on effective utilization of ICT.

Wednesday, 27th July, 2016
(Afternoon Sitting) - Report of the Committee on Public Accounts and Investments on their benchmarking visit to the counterpart Committee at the Senate and the technical team at the National Assembly.

Thursday, 28th July, 2016 – Report of the Committee on Selection on reconstitution of Committees.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Tuesday, 2nd August, 2016 –
Report of the Committee on Health
Services on The Siaya County Public
Nuisance Bill, 2015.

Wednesday, 3rd August, 2016
(Morning Sitting) – Report of the
Committee on Health Services on The
Siaya County Carriage of Food Bill, 2015.

Thank you, Mr. Speaker, Sir.

Hon. Speaker: The Report of the
Committee on Lands, Physical Planning,
Survey and Housing has been rescheduled
to tomorrow morning. So, we are likely to
have two reports being debated.

Order No. 8 will now not suffice
because the Committee has requested that
they move the Motion tomorrow morning
and there was concurrence. Next Order!

ADJOURNMENT

Hon. Speaker: Hon. Members,
will you be upstanding for adjournment.

*(All Hon. Members stood up in
their places)*

Hon. Members, there being no
other business, this House stands
adjourned until tomorrow, Wednesday,
27th July, 2016 at 9:30 a.m. in the
Chambers.

The House rose at 2.40 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 27TH JULY, 2016

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

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

PRAYER

**COMMUNICATION FROM THE
CHAIR**

VISITING VIHIGA MCAS

Hon. Speaker: Hon. Members, allow me to report to you that Members from Vihiga County Assembly Privileges Committee will be visiting our Privileges Committee tomorrow after which they will have an opportunity to be in our Public Gallery. Do expect them. Next Order!

NOTICES OF MOTION

Hon. Speaker: A notice had been given yesterday, so today we would have gotten the notice or the report for Tourism, Wildlife Conservation and ICT. The Committee has requested that they be allowed to move the motion to Thursday afternoon if the Chair obliges, so we are going to have motion No. 8. Next order!

MOTION

REPORT OF THE COMMITTEE ON LANDS,
PHYSICAL PLANNING, SURVEY AND
HOUSING ON BENCHMARKING VISIT TO
NAKURU, KIAMBU AND NAIROBI COUNTIES
ON DEVELOPMENT CONTROL AND
GEOGRAPHIC INFORMATION SYSTEM

Hon. Speaker: Yes, chairman.

Hon. Otare: Thank you, I would wish to move a motion:-

THAT this House adopts the report of the Committee on Lands, Physical

Planning, Survey and Housing on benchmarking visit to Nakuru, Kiambu and Nairobi counties on development control and geographic information system laid on the Table of the House on Tuesday, 19th July, 2016.

Hon. Speaker: Proceed and move your motion.

Hon. Otare: Thank you, I believe Members have copies of this report as they were given yesterday and I just wish to go through it. In this report, the Members went for a benchmarking visit to Nakuru, Kiambu and Nairobi counties on development control and geographic information system. We can move over the contents and move to page 3:-

1.1 The Sectoral Committee on Lands, Physical Planning, Surveying and Housing is constituted under Standing Order 192 (1) of the Assembly Standing Order, and is mandated to, oversight, “*All matters related to lands, housing, settlement, county planning and development including statistics, land survey and mapping, boundaries and fencing, electricity and gas reticulation*” has the honor and privilege to present the report on benchmarking visit to Nakuru, Kiambu and Nairobi counties on Development Control and Geographic Information System.

2.0 Membership

The following are the Members of the Committee:

2016 SIAYA COUNTY ASSEMBLY DEBATES

31. The Hon. James Otare, MCA
- Member (Chair)

32. The Hon. Omollo Kowi, MCA
- Member (Vice -Chair)

33. The Hon. Beatrice Obondo, MCA
- Member

34. The Hon. Willis Ochieng, MCA
- Member

35. The Hon. Selah Okwako, MCA
- Member

36. The Hon. Joseph Kawuor, MCA
- Member

37. The Hon. Joannes Andiego, MCA
- Member

38. The Hon. Leonard Oriaro, MCA
- Member

39. Hon. Peter Ombee, MCA
- Member

40. Hon. Christopher Apiyo, MCA
- Member

Mr. Speaker Sir, The Committee on Lands, Physical Planning, Survey and Housing from 14th to 18st, March, 2016 went on a benchmarking visit to Nakuru, Kiambu and Nairobi counties on development control and GIS system. County Assembly of Siaya – Lands Committee organised for the visit. The Committee sought the company of technical officers from the Lands Department of the County Government of Siaya. The officers from the Department of Lands were the following:

1. Mrs. Beatrice Achieng Obado – Chief Officer
2. Mr. Jeconia Onyango Were – Director of Survey
3. Mr. Collins Ochieng Alingo – Ag. Director of Physical Planning

The main objective of the visit was a fact finding mission on how these counties were dealing with issues to do with:

1. Development Control
2. Automation of Land Management and Administration by use of Geographic Information System
3. Housing
4. Public Land Regulations
5. Surveying
- 6.

3.0. NAKURU COUNTY FACTS

Nakuru County has eleven sub Counties, covers an area of 7'509 km² and has a population of about 1.6 million people and 55 wards.

The Committee met with the following members of the Lands Department from County Government of Nakuru:

1. Mr Robert Kiprono Ruto – Director, Lands and Physical Planning
2. Mr. Maroki Maina – Director, Housing
3. Mr. Mayaka Nyaroko – Physical Planner
4. Ms Elizabeth Murungi – Physical Planner
5. Mr. Francis Nderitu – Development Control Officer

3.10. Development Control

Development Control in Nakuru County is carried out by County technical committee that was constituted through a cabinet decision (memo) and is composed of:

1. Director, Lands and Physical Planning
2. Director, Housing
3. County Government Surveyor
4. County Government Planner
5. Public Health Officer
6. Lands Administration Officer
7. NEMA (National Environment Management Authority) Representative
8. NAWASCO (Nakuru Water and Sewerage Company)

Representative

Other than development control, the committee handles change of user, extension of leases and approval of subdivision schemes. Extension of lease requests passes through the committee and is sent to the National Lands Commission (NLC) for approval.

Enforcement Officers are normally used to enforce regulations and are answerable to the County Secretary. Nakuru County has a Land Information Management System (LIMS) that is fully equipped. However, the County government of Nakuru does not have a G.I.S. laboratory.

The County is already preparing a County Spatial Plan that will cost a total of 350 million. Some of the legal instruments in progress are:

1. County Land Management Bill
2. Housing Bill
3. Parking Bill (from Public Works)

Otherwise, the defunct Council by-laws are still in use.

3.20. Letters of allotment

The Land Management Committees were formed through a cabinet decision (memo).

Letters of allotment are issued by the Director of Lands and Physical Planning and the National Lands Commission is not involved in the process. All the land in the County has been adjudicated. The Lands department and the Lands registry work together only on areas of common interest, i.e. land registration.

3.30. Part Development Plans (PDPs)

Part Development Plans (PDPs) are approved by the CECM in charge of lands and the only accompanying documents required are the genuine ownership documents of the land to be developed.

The department has employed development control officers who ensure that regulations and standards are adhered

to by carrying out inspections and recommending enforcement actions. The technical committees are replicated in the sub Counties and are chaired by the Sub County Administrators.

To ensure that the development regulations are adhered to at all times, there is a

Surveillance Team. The team works seven days a week. However, it is the duty of the private developers to inform the office of the critical stages that need supervision.

The owners of non-approved kiosks and structures are usually given seven day notices to remove their structures, failure to which they are taken to the County Court and charged. Market plots are usually allocated on annual basis. The allocation is normally issued for modern kiosks, car washes, garages and eating places.

Nakuru County Government has put on hold the appointment of town managers due to the fact that the Urban Areas and Cities Act is under review at the moment and some of the urban areas will be reclassified. To deal with issues of public land, the department has formed a County Land Management Committee, replicated at the sub Counties. The Committee deals with issues of land rates and land ownership documents. The Committee is composed of:

1. Physical Planner
2. Surveyor and
3. Sub County Administrator

3.40. Housing

The Transitional authority was responsible for recording assets for County government and central government. In Nakuru, the houses they had were for municipal and County councils. The County has about 6000 houses. The department has done minimal repair especially for the roofs. Being social houses, the rent is so low but raising the rent is a tall order because they are protected and gazetted as public property meant to benefit defunct council employees.

Joint ventures like Public Private Partnership may be explored to bring about regeneration of houses and establishment of new housing schemes. In the proposed venture, the County government could provide equity in terms of land. The investor could provide finance and technology.

3.50. Challenges

Mr Speaker Sir, Some of the main challenges faced by the department are:

1. Encroachment of public land.
2. Deviation by developers from approved PDPs.
3. Non-professional subdivisions, some with no access roads.
4. Political resistance from politicians due to political connection of some developers.
5. Practising quarks (Survey, Architecture, Planning, Engineering)

4.0. KIAMBU COUNTY FACTS

Kiambu County has twelve sub Counties, covers an area of 2,449 km² and has a population of about 1.62 million people.

The team met with the following members of the Lands Department from County Government of Kiambu:

1. Mr. Muchemi Kinuthia – Director of Housing
2. Mr. Zachary Kinyua – Director of Lands
3. Ms. Marianne Waikunda – Deputy Director, Physical Planning

The Lands, Housing and Physical Planning Department of Kiambu is composed of four Directorates: Physical Planning, Housing, Surveying & Informatics, Land Valuation and

Asset Management.

4.10. New Technology in Land Management

Kiambu County Government long realised that Land Administration and Management was cumbersome in the analogue way. The County Government has already established two G.I.S. laboratories, one in Thika, and another in Kiambu town which is almost operational. On realising that most of their paper maps are in tatters, the Lands department launched a digitization project in February 2016 for all the land parcels in the County.

As of 15th March, 2016, 85,000 parcels had been digitized and the exercise is expected to last up to June 2016. Digitization is being done by 20 hired interns from diverse counties and Universities, and is supervised by staff from the lands department. Environmental Science Research Institute (ESRI) East Africa was consulted on software and trained the staff on G.I.S.

To include more crucial information into the G.I.S. database, a team of physical planners and valuers are in the field to collect data on:

1. Land size
2. Land ownership
3. Value of land
4. Land rate
5. contact of land owners

The project is budgeted to cost Kshs. 3 million while the G.I.S. equipment and software cost is Kshs. 26 million. Among the modern equipment bought by the department at a cost of Kshs 28 million are:

1. Four theodolite total stations
2. Two Geodetic G.P.S. (Global Positioning System) Receivers
3. Eighteen hand-held G.P.S. Receivers

4.20. Development Control

Kiambu County developed their spatial plan using their planning officers without contracting consultants. This is due to the fact that they have a sufficient number of physical planners (twenty in number) employed in the Department. The spatial plan is ready and is due for

approval by the County Assembly.

The department is working on their own Planning bill and several policies have been developed but not yet approved. However, the policies are already in use while awaiting approval.

The World Bank has funded strategic development plans for various urban areas in Kiambu, through the national Government.

Planning clinics are regularly organised by the department to sensitise developers and residents on development control and planning.

4.30. County Land Administration Committee

This committee is composed of sub County administrator, physical planner, surveyor and elders at sub County level. It deals with all the land issues in the county and so far they have managed to identify and document 1,800 public land parcels. Some of the measures that this team unveiled were:

1. Waiver for land rates defaulters
2. No transfer of non-developed plots
3. Proof of rates payment by developers before approval of plans
4. Regularisation of all public land ownership (doing due diligence on all the claims)

Relationship between the department and the county assembly is very vibrant and the CECM of lands does quarterly reports to the County Assembly, Lands Committee.

Some of the Bills that have been prepared by the department and waiting enactment are:

1. County Land Valuation Bill
2. County Survey Bill
3. County Physical Planning Bill
4. County Housing Bill

5.0. NAIROBI COUNTY FACTS

The Committee met the following officials from Nairobi County Government, Lands Department:

1. Mrs Pauline Wangari – Director of Lands, Survey and G.I.S.
2. Mr. Philip Mbithi Kiswi – G.I.S. Specialist
3. Mr. Alloys Matoke – G.I.S. Specialist

The Department of Lands, Planning and Housing is responsible for:

1. Property Management
2. Forward Planning
3. Development Control
4. Urban Design
5. Land Survey
6. Rating and Valuation
7. Enforcement
8. Rental Housing Development & Management
9. Low cost Housing
10. Slum upgrading

The directorate has carried out in-house training for their staff on the use of G.I.S. and other new technology. New digital equipment and vehicles for the department had been budgeted for, procured and only awaiting delivery. They now depend mostly on hired vehicles. Nairobi County has a well-equipped G.I.S. laboratory and enough personnel. The laboratory is also supplied with high resolution satellite images and GeoData, with most of the GeoData bought from the Survey of Kenya (SoK).

On the issue of revenue collection, some of the survey revenue still go to the national government. However, the county has opened trust accounts to hold fees collected for some items such as stamp duty and director of survey fee. Some other fees that are collected for the county are: survey fee, beacon certificate fee, application fee, dispute resolution fee and plot location fee. A County Land Policy is being prepared to address the above and is expected to be ready in April 2016.

5.210. CHALLENGES

Some of the major challenges faced by the department are:

1. Double allocation of plots
2. Office space constraints

6.00. REGIONAL CENTER FOR MAPPING OF RESOURCE FOR DEVELOPMENT (RCMRD)

Mr Speaker Sir, the Committee met the following officials from RCMRD:

1. Prof. Dr.-Ing. John B. Kyalo Kiema – Director
2. Mr Byron Anangwe – Production and Marketing Manager

The Regional Centre for Mapping of Resources for Development (RCMRD) was established in Nairobi – Kenya in 1975 under the auspices of the United Nations Economic Commission for Africa (UNECA) and the then Organization of African Unity (OAU), today African Union (AU). RCMRD is an inter-governmental organization and currently has 20 Contracting Member States in the Eastern and Southern Africa regions; Botswana, Burundi, Comoros, Ethiopia, Kenya, Lesotho, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Somali, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

The Centre is headed by a Governing Council that is composed of Principal Secretaries and Directors of relevant departments in Government.

The mission of the centre is to promote sustainable development through generation, application and dissemination of geo-information and allied ICT services and products in the member States and beyond.

The main Geoinformation technologies promoted by the Centre are Geographic Information System (GIS), Satellite Remote Sensing, Global Positioning System (GPS) and Information

Technology (IT).

6.10. Functions

1. Capacity enhancement
2. Projects with partners and countries e.g. Jaramogi Oginga Odinga University of Science and Technology (JOOUST)
3. Data setting (satellite images and data at reduced rates)
4. Developing high end tools for member states
5. Promoting geoInfo for sustainable development
6. Calibration and servicing of survey equipment
7. Developing solutions at county level (Makueni and Muranga through MoU)
8. Advisory role at no cost

To fulfil the above mentioned function of capacity building, the centre undertakes the following:

- a) Monthly trainings on G.I.S. and Remote sensing
- b) Customised trainings on arrangement with clients

The Centre is also in a position to negotiate and facilitate for funding for projects by donors, but through the centre, not direct engagement with the donors.

6.20. Current Projects

1. Hazard Mapping for Garissa, Turkana and Tana River Counties.
2. Atlas for Development for Baringo, Kwale and Kilifi. This is a document that is essential in informing and briefing potential investors on the opportunities and challenges in the County.
3. SERVIR (to serve) Eastern and Southern Africa is a project in partnership with NASA(National Aeronautics and Space Administration) and it focuses on providing access to decision-support tools and information services e.g. satellite images.

4. Provides access to satellite images from providers such as TERA, AQUA, MPP, Sentinel and Landsat.

The Director expressed his appreciation of Siaya County's interest in their work and willingness to work closely with the county in the near future.

7.0. OBSERVATIONS

Mr Speaker Sir, the Committee made the following observations:

- i) The County government of Siaya, department of Lands, Physical Planning, Survey and Housing is yet to come up with a Bill to regulate the sector.
- ii) The efficiency in the sector is attributed to having technical officers at the sub-county level to bring services closer to the people.
- iii) There is great potential for revenue generation in the sector from fee levied for professional services especially survey fee, beacon certificate fee, application fee, dispute resolution fee and plot location fee.
- iv) There is need to control development in the county to avoid collapse of buildings that would lead to loss of lives.
- v) There is need to come up with regulations to weed off quarks from the sector
- vi) Most structures in the Central Business District (CBD) of the Siaya County headquarter are not aesthetically inspiring, old and dilapidated.

8.0. RECOMMENDATIONS

Mr Speaker Sir,
The Committee came up with the following recommendations:

1. County Government of Siaya should adopt and customise the idea of County Land Management/Administration Committee, as the challenges being addressed by these committees in Kiambu, Nairobi and Nakuru are

similar to the ones Siaya faces. These are in Development control and land management.

2. The County government to invite the RCMRD officials to our county, so that they can have audience with the entire membership of the Siaya County Assembly and Executive. This would give them a chance to sell the ideas in G.I.S, Remote Sensing and help us identify our opportunities in these areas.
3. As most of the counties are already at an advanced stage in enacting their bills and policies, County Government of Siaya Executive and Assembly should prioritise the need to fast-track the preparation and enactment of the same for Siaya.
4. The Lands Department in Siaya is deficient in professional staff numbers, as compared to these counties and to the county's need. Critical positions should be filled so as to enable the department to operate efficiently.
5. The County government of Siaya should adopt digital Land Information management Systems (LIMS), and G.I.S. technology to administrate and manage their Land Information as was observed in most Counties.
6. Modern survey equipment and vehicles are critical to the department fulfilling its mandate, and it's evident from what has been witnessed in the investment the counties have made in this area. The County Government of Siaya should make this a priority.
7. The Lands Department of Siaya should be in constant communication with the RCMRD, County Governments of Kiambu, Nairobi, Nakuru and any other County, so as not to miss out on the donor funding opportunities that

may arise to benefit the County.

8. The County Executive department of Lands, Physical Planning, Survey and Housing should initiate discussion on how to take over and harmonise some of the functions and revenue streams that were devolved, but are still being held by the national Government. This is in Survey, Physical Planning and Housing.

9.0. FINAL SUBMISSION

Hon. Otare: On behalf of the Committee, and pursuant to Standing Order 192 (e) and (g), it is my pleasant duty to Table in the House the Committee report on Benchmarking visit to Nakuru, Kiambu and Nairobi Counties, this 6th day of July, 2016 and urge that the report be adopted by this Honourable House.

Hon. Speaker: Hon. Members, allow me to put the question which is:-

THAT this House adopts the report of the Committee on Lands, Physical Planning, Survey and Housing on their benchmarking visit to Nakuru, Kiambu and Nairobi Counties on development control and geographic information system laid on the Table of the House on Tuesday, 19th July, 2016.

Hon. Ndonji: Thank you, Mr. Speaker, Sir, I first want to commend the Committee but I also want to put it clearly that normally, when a Committee goes out for benchmarking, the reasons are very clear. It is to compare what we have here to the ones that are found in other Counties. It was a good job that they came up with some of the items that we don't

have in this County. From the report they have, most of these Counties already have structures in terms of issues to do with land, which I highly doubt if we have here in Siaya and that comes from what they are saying, the facts they found in these other Counties.

Going by the report, the CECMs in-charge of land dockets in these particular Counties have been providing quarterly reports. Probably the question that might arise here is if we also normally get these quarterly reports not only from that Department but also from all Departments within the County because they think it should be a Constitutional issue.

It means that each and every CECM should be giving a quarterly report on happenings in respective departments and probably what they are planning to do in the next quarter. I doubt if that is happening in all departments but I also want to say that through this, I think that whatever is being taken there should also generalize that issue of giving out quarterly reports. Otherwise, there isn't so much that I can talk about and actually I had also seen that there are a number of systems or rather technology that are being applied in other areas which are not in Siaya.

It is important that the Executive looks into this and in case there are any additional expenses that can go by them, then we should find a way that they can get into the budget in the near future so that we are not stopped due to other technicalities like financial inability. The only observation that I never came to notice but I tend to believe is everywhere; is the corruption that is within these land Departments.

I think this one is happening in every County and probably that is why the Committee never saw the reason to highlight that one because nothing to do with corruption in land Department has been mentioned here even from the report that they are giving; it's like there is nothing to do with corruption there that they found out. I would have loved to also know if there was anything to do with corruption that was discussed there and if there is anything we can do here to make sure that we can stomp out this vice. Thank you, Mr. Speaker, Sir.

Hon. Speaker: You had a chance to second; I am just wondering why you didn't do it immediately.

Hon. Oriaro: Allowing an exception is not creating a precedent.

Hon. Speaker: I have not allowed you the chance to speak.

Hon. Oriaro: I never wanted-

Hon. Speaker: Take your seat, Hon. Oriaro. I shall give direction. The idea is that when you're given an opportunity to second, you use that opportunity to express yourself to the matter in question and when you feel-

Hon. Oriaro: There is word economy-

Hon. Speaker: Order! Order! Hon. Oriaro. I deny you the chance which I wanted to generously give you. When you feel you are not yet ready then you just rise and bow then you reserve that right to speak at a later time but when it is immediate; you bow, you second in word then at the very time you want to talk and when we are enlightening ourselves, you still seem to be the speaker guiding all of us. I give you the chance to speak, Hon. Oriaro.

Hon. Oriaro: I am very sorry, Mr. Speaker, Sir, for having become more or

less a street rat. On comparative basis it is observable that the Motion moved by a Member that Siaya County is still Neanderthal, the concept of geographical technological mapping can help us in many ways. One of the resources we have is the Marine resources.

With it we can even better understand the breeding SACCOs on the part of controlling the fisheries. We have been hearing that, unfortunately the County Government is going the Central Government way of periodic banning of fishing of dagaa. With that information we can better manage the fisheries by controlling the stock and even the breeding patterns.

Hon. Muhula: A point of Order, Mr. Speaker, Sir!

Hon. Speaker: Yes, Hon. Muhula, what's the point of Order?

Hon. Muhula: I am taken by confusion because we are discussing the issue of land management and development yet here, the Hon. Oriaro is introducing fisheries!

Hon. Speaker: The Standing Orders are that only one person can talk at a time.

Hon. Muhula: Is it in Order for him to continue misleading the House?

Hon. Oriaro: Mr. Speaker, Sir, the Constitution...

Hon. Speaker: Hon. Oriaro, hold your horse! He has raised a Point of Order; I want to give guidance that we confine our debates to the subject matter.

Hon. Oriaro: Thank you, Mr. Speaker, Sir, the Constitution defines land as the land itself, the air and the water bodies; so I just want the Hon. Member to understand the dynamics of my contribution. With GIS mapping we can better understand our resources such that

in the health sector we can easily know which areas are highly populated, which ones are densely populated and we know where to put even medical facilities. With the GIS, soon we shall be talking about giving the water Committee an uphill task to go and do mapping of even water resources.

With that technology, it can easily be understood right from the tabs the Assembly gave us the areas that have boreholes, the ones water pans, dams and lakes entirely. With the same technology, we can easily know which area has got which type of soil to plant what type of crops.

This is the area I really wanted to underscore. Even at the political level, we shall always be talking about doing mathematics. We can easily know which areas are heavily populated by voters as you concentrate in those areas. I am very happy that when we were at the regional Centre for Resource Mapping for Development, one of the operative technocrat scouts from Siaya County, indeed from the Ward of Deputy whip, Hon. Booker. We were really welcomed and we realized that we must be like other Counties as explained in the report. How the County Government can commune with that regional setup for resource mapping for development where Kenya is a Cooperate body.

Kenya pays monthly subscription; there is no excuse of Siaya County failing to utilize such a resource. They do it for free; even their invitation is free. With the help of GIS mapping, we can easily plan for it to source for funds. It is so easy, it would even cost Kshs.3Million. We should go digital because while we were at that center, we could easily see even Kisumu by way of satellite. We could even see

how Siaya performs. These are some of the things usually uploaded in Google mapping. This is a report that the Committee on Implementation will easily follow up because it is easily implementable. I support.

Hon. Apiyo: Thank you, Mr.

Speaker, Sir, I would like to congratulate the Committee and more so my able Chair for presenting this report. Having looked at it, it has a flow; I want to give them thumps up on that. We have to generate a Bill, the Bill will guide this sector on that. As I go through the report, I can capture that there is an issue on the letter of allotment and it comes together with Plot Development Plan (PDP) which is captured clearly and is marked. The lands Department should put aside some allocation for buying equipment of doing the survey work. It is upon this department to be forwarding their budget for the Assembly to approve and the allocation to buy this equipment.

There is also the issue of collapse of buildings; there must be proper planning for this County to avoid this. This happens in Nairobi and can even happen in Siaya. There are quacks coming up, passing for planners, surveyors and architects; we need to register the experts in these areas then we shall not have issues like the collapsing of buildings, even the congestion in towns; these are the planners to plan our city properly! There is also the issue of revenue; this is key and very important land issue. What are the revenues? They are things like rates and whoever owns land and has a title deed must pay rate revenue. Rate must be paid and the County Government must enforce the collection. How are we going to have the rates? These are the things that I was talking about, the Bills.

The Bill explains clearly how the County residents can pay the rates. There are also annual rates that must be paid by those who own plots. That is how the County Government will generate revenue.

When you want to survey a plot, there is a fee that must be paid, there are sub divisions fee, there is change of user fee, and there is approval fee, allocation fee. When you are getting a letter of allotment, there is some fee that you have to pay to the County Government. So, these are things that we have to look at and these will only be generated from the Bills. We need to talk to our CECs to bring the Bills here for our debates.

There is also the staff issue; most of the time when you go there, they tell you that they don't have enough staff. We need to have some staff, good modern machines and equipment for survey work to be efficient. Lastly, if you look at the report, recommendation no. 7, the Land Department of Siaya should be in constant communication with RCMRB, County Government of Kiambu, Nairobi, Nakuru and any other County so as not to miss out on the donor funding. If we gather and get information from Nairobi then we could be having other sources where we can get money not only from allocations for Siaya County but also from donors. I rest my case, I support the report.

Hon. Andiego: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I also want to take this opportunity to thank the Committee which I am also a Member of for the good job. At times when a Committee goes out, it is said that they go for allowances but if you look at this paper ...

Hon. Speaker: Hon. Andiego, what have you just said? Can you withdraw that statement!

Hon. Andiego: Am saying that if you read the Newspapers it is always said that MCAs go out for allowances, that is what the public and the media take us for.

Hon. Speaker: Proceed!

Hon. Andiego: Thank you, Mr. Speaker. If you look at this paper here, it has a lot that if implemented; I think we shall move an inch higher. We need allotment letters in Siaya. You will find people fighting over a small piece of land because there is no document showing that someone owns that land. Many parts of Siaya County have not been adjudicated. So, we want to ask the Executive to move fast. Adjudication is not a matter of the County but they should liaise with the National Government in one way or the other so that all parts of our land is adjudicated.

Recently we had a Statement from Hon. Ombee, asking about kiosks which are everywhere. If we go to page 6 of the report, you will find where they have explained what is supposed to be done to kiosks which are not planned. I can read it; the team works 7 days a week, the reinforcement team works 7 days a week, however, it is the duty of the private developers to inform the offices of the need for supervision. The owners of non-approved kiosks and structures are usually given 7 days' notice to remove their structures failure to which they are taken to the County Court and charged. There was a Statement in this House which was asking whether there is a plan that shows how kiosks are placed because they are everywhere and if we had a serious team and plans I don't think we shall be found in a situation that we had in Akala market again.

There are challenges that are being mentioned and if you look at them, they

are challenges that we face in Siaya. The challenges of Nakuru are exactly what we are facing here. I would request that through these challenges, we find a solution so that the land issues are resolved.

The new technology and digitization of land issues are key and if you come to Siaya, the only thing that they will tell you is that there is no money. I am relating this issue with the budget, the last time we had a meeting with a team from the Executive and I am happy that our Chair is also a Member of the Budget Committee. There is money which was allocated for such and it was not approved, reason being that the Chair of the Lands Committee did not know of that Budget, so when we say that the Executive should be in constant consultation with the Committee here, it is key because it helps when the Budget issues come.

Right now in our report we feel that we should be having money for digitization of these projects but when the money was placed, it could not be defended. I am requesting that all Committees should force the Executive to let us know exactly what they have and what they are planning to do and even the budget should be discussed at that level so that the Committee becomes privy to everything that is going to be budgeted for.

Lastly, I would request that in our recommendations, they would have recommended that the Executive must always bring reports to this Committee as it happens in Nakuru. Otherwise, I support the report.

Hon. Speaker: Hon. Member for West Alego! But just a point of clarification, in the budget making process, any time the Budget and Appropriation Committee has the budget estimates,

Departmental Committees give their views on those budgets and you do not have an excuse to say that the Committee did not know. Yes, Hon. Muhulah!

Hon. Muhulah: Mr. Speaker, thank you, for making that clarification because it was a misinformation. While I stand to commend the Committee for the work well done and the reason I want to commend the Committee is on the choice of destination because if you have to benchmark, you should only benchmark with people who have done better work than you. Kiambu Committee has done well overtime and this debate wouldn't have come at a better time when even there is a Motion on how best and efficient usage of ICT should be enhanced in Siaya County.

Section 47 of the County Government Act of 2012 gives 5 planning, one is Financial which is the CIDP, the second one is Sectoral and the third one, which is very critical, is Spatial Plan then the fourth one comes in the Urban and Cities Plan and the last one is the County Performance Plan.

There is a special reason why Spatial Plan was put as one of the distinct and very important plans that the County Government needs to undertake. If I jog my mind, it is anchored within the Constitution that Spatial Plan is one of the things that the County Government should do within the first years of being active. Siaya has not managed to do this because there is a deliberate attempt to do things within their time frame. It has been highlighted very nicely here by the Committee team that went for this benchmarking on the very importance of doing the Spatial Plan through the scientific method. One of them is to enhance development control that we

2016 SIAYA COUNTY ASSEMBLY DEBATES

should have a town that looks like one, not like a shanty; Siaya is one of the culprits.

Number two and that is very important is the collection of the revenue where Siaya has actually performed very poorly. Just a few months or weeks ago, we were discussing here about the revenue collection of Siaya County. This is because the Siaya County Government has neglected the revenue rate points that we can use to enhance this one. I want to commend the Land Committee on very many areas especially in the adoption of scientific areas of doing the mapping and also the controlling of land.

It is evident that for many years, even right from inheritance from the Local Authorities, allotment has been a problem and this one has happened because there is no land control on both the ownership and the usage. The Land Department is very evident that again has deficiency of the technical staff that can help in enhancing this one but, however, I shall plead that the Committee on Lands works closely with the Executive Lands Committee Member to approach the private partnership in possibly helping in terms of finances to support the endeavor.

Other than this, the exercise of Spatial Plan is not a cheap one. Today I think the County Government, through the Treasury and this House has only been able to give about Kshs. 67million for the exercise. The initial request from the Executive was for Kshs. 107million to undertake the first phase of this one. The best way we can achieve this is by going the private partnerships way. We cannot over emphasize on the issue of modern survey equipment. As we talk today, that land issue with relevance to the investments in Siaya County is being undertaken by Tana Delta where they are

doing the land use plan and also the strategic environmental assessment for that area and if Siaya County was actually owning modern equipment that are critical for this work then part of this exercise would have been undertaken by their County Government. There is a recommendation that the Siaya County works closely with the Kiambu, Nairobi and Nakuru Counties so that we don't miss an exposition of the failure of the Siaya County Government following other County Governments to get resources to do their work as opposed to doing their own fund raising for resource mobilization.

Siaya is a County of firsts that we cannot play second fiddle to other Counties. Why can't the County Government Committee of Land work closely with the Executive so that they can map out how they want to mobilize resources for this exercise? Doing that will even increase our credibility in the faces of other County Governments.

I don't have much but I want to commend that this was a work well done and I shall always stand and support such credentials. Thank you.

Hon. Speaker: Yes, Hon.Kawuor.

Hon. Awuor: Thank you, Mr. Speaker, Sir, I am on my feet to support this report and I want to declare from the onset that I am a Member of this Committee. A lot has been said and I really want to thank our team which went through all these Counties to get facts on how land can be utilized well.

I want to differ with my good friend Hon. Muhula on the issue that Siaya has not done anything because immediately after we had come from benchmarking in Nairobi, Kiambu and Nakuru I was privileged, together with

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Apiyo Apiyo and Hon. Beatrice Opondo to attend a very important workshop in Eldoret where we met officials from the World bank and several Counties attended. Siaya was found to be one of the best Counties in terms of special planning and in fact Siaya was ahead of almost all the Counties.

One thing that I want to share with my colleagues here is that my Committee was the first Committee to benchmark in Kiambu County. I want to share with my colleagues that the hospitality of Kiambu County is wonderful and yesterday you said we were going to be visited by Vihiga County; I don't know how hospitable we are here but I want to say that the way we were welcomed in Kiambu, Nakuru and Nairobi was wonderful.

I was trying to observe because most of the inhabitants in those Counties are from one particular region. They have taken the issues of land management very seriously. I was wondering if it is because their original homeland is overpopulated; because if you look at the way they do things and look at our report, they have taken the land issue very seriously. In terms of Committees, if you look at Siaya, just look at the way our terms are, there is no proper management; there is haphazard mushrooming of stall and plots. Those people have taken the issue of land very seriously.

On the issue of getting allotment, if you come to Siaya now and you say you want to put up a factory, you don't know where to go and get a piece of land. You don't know where to start but those people have identified specific places that are very good land that I really want to tell our people to really follow. Mr. Speaker, the Committee was composed of the Chief Officer of Lands, Director of Lands and

County Surveyor and I think that whatever we did learn there must be replicated here in Siaya.

I don't want to overemphasize what my colleagues have said but I want to say that this is one of the reports that we have had from this Committee and I just want to urge my colleagues to support this report. Thank you.

Hon. Speaker: Hon. Member for East Gem.

Hon. Minami: Thank you, Mr. Speaker Sir, for the opportunity you have given me to contribute. First of all, I want to thank the Committee for the good work that they have done and for the good report they have tabled in the assembly.

I have looked at the main objectives of why this Committee decided to do benchmarking. They had about 5, Having gone through the report at the tail end where we have findings and recommendations, I have found out that they have touched on 3 but 2 areas have not been touched. The area that they have touched was not the main objective of development control, affirmation of Land Management and education and 5 surveys the area of Housing and public land regulation unless you go through the Bill that has been recommended has not been touched.

Sometimes maybe it is me who doesn't understand the meaning of benchmarking. The other day we were making a report that the Committee of Water had gone to bench mark somewhere in the Northern part of this town. Mr. Speaker, you find that the report was talking about Tana River but when you come to recommendation, it is talking about Siaya. So I was trying to know the relationship between Tana River in the report and Siaya in the recommendations.

I think the benchmarking itself, if it is the issue to do with letters of allotment; Kiambu, Nakuru and Nairobi Counties are doing this and Siaya County where we come from also does the same. I think it is from there that we should be making comparisons. Now that Kiambu and others are not doing this, then from there we are going to derive findings and recommendations on what to do.

This report has detailed very clearly what is being done in the Counties that they benchmarked but if somebody who is not familiar with the on goings of Siaya gets this report, what is he going to compare the other Counties against?

I think that if it were the issues of Housing we would have indicated that in Siaya we are doing this, the way they have indicated what is happening in these other places like Nakuru so that somebody coming from nowhere and reads this report will get the bigger picture and this person when going to the findings and recommendations will find it very clearly what that report talks is about.

Sometimes I fail to understand the essence or the meaning of benchmarking because you find that there is some disconnect between what we are saying, what we have benchmarked against what we have...

Hon. Muhula: Point of information, Mr. Speaker.

Hon. Speaker: Yes, Hon. Muhula.

Hon. Muhula: I wish to inform the Member that it is not necessary that if you go for benchmarking you have to go through the whole ministry. We only benchmark what we realize that at least we are weaker on. The Committee settled for land but if they were going for land it was not necessary to go also for housing. They

were only going for land and planning which they have actually reported here.

Hon. Speaker: That's right, but Hon. Booker has just been giving a contribution on how we can improve on our report writing where he is saying that it makes more sense when you do a comparative analysis. That is what I got from his contribution. I think you can proceed but you are all right.

Hon. Minami: Thank you, Mr. Speaker, Sir, for that. As I conclude, I think that some fundamental issues have been raised in the report that our County needs to take into account so that the issue of land is being addressed in a manner that is going to be beneficial to us now and in the future.

Our County is endowed with a lot of land which can be used in doing so many things; be it farming, education, health, business and even commercial purposes. It is very important that as a County we have a data bank for all these places and land available for different things. It is even in the recommendation here, so that if an investor comes to Siaya and for example wants to set up a factory that makes iron sheets, we are in a position to direct where such projects can be allocated.

We have been allocating a lot of money in every financial year, money for purchases. We have money that was allocated in the other financial year 2014/2015, 2015/2016 for purchase of land for development. Up to date I believe that no single cent has been used for the purchase of those lands.

It is very important that this department implores upon the Executive that they make use of the money that is being allocated to them so that the County is always ready for investment when an

2016 SIAYA COUNTY ASSEMBLY DEBATES

investor comes so that not all the time when an investor comes they are directed to Dominion in Yala Swamp as if Yala Swamp is the only place we have land in this County Government.

If you go across the County here we have a lot of land for different things even land for mining is there and I think it is very important that the County uses technology as has been proposed here to make sure that it updates its records of land that is within the County that can be used for other developments.

I want to thank the Committee for the work they have done and I believe as a Committee they should do a follow up on this matter so that our County is also at par if not the best with other Counties that we have within this Country. Thank you, I support.

Hon. Speaker: Yes, Hon. Walter.

Hon. Okello: Thank you, Mr. Speaker, Sir, for the opportunity to add my voice on the same. My concern stems from the contribution from my colleague Hon. Booker as he finishes. From this report the only debate that should ensue is that as a County it is high time you started thinking about how we address County based bureau of statics if the reflections we have are anything to go by.

Just as the Hon. Booker observed we have the advantage of being the first people mandated with the running of this County and it will be very important that going forward, it is clear to everybody who will be coming from any part of the world and will be interested in whatever sort of investment. As a county, we have been known to be out there soliciting for investors in different sectors. Unfortunately, many of the investors are yet to arrive in this county but we remain

optimistic that in the coming years we shall have several investors.

There is reference made in this report about public land; Mr. Speaker, Sir, land being the very core means of production, I think all of us need to look back at our Wards because the land we say the county has, is actually in the Wards. This is an opportunity to evaluate how we use land in our Wards. Today, if you come to West Asembo Ward which is represented by Hon. Munda and where I also come from, will you find land that can be used for public cause? That is a question that should be asked across the thirty Wards.

I am privy to information that there is a British firm that is doing exploration of gold in Siaya County. They have just completed the exercise in Kakamega and now their focus is Siaya. We need to move with speed and adopt this report. We need to finish setting up these infrastructural basic foundations so that Siaya County can be ready for development take off.

I am impressed with something Hon. Andiego raised about Nakuru County which has put in place county courts. I am not aware if we have one in Siaya. What this shows is that certain counties have gone ahead to set up certain infrastructural facilities which are very important for economic take off.

Mr. Speaker, Sir, I believe this is a very good report and the very essence of benchmarking is that we can pick up what is good for us and make improvements where necessary. I support.

Hon. Owii: Thank you, Mr. Speaker, Sir. As Hon. Gare and I were consulting, he told me that I should speak after him, but I have just decided to speak.

(Laughter)

2016 SIAYA COUNTY ASSEMBLY DEBATES

Mr. Speaker, Sir, I was part of the team that went for the benchmarking exercise and we saw many things that are not happening in Siaya. What we noticed is that as a county, we have not put in place structures to do with land management and on issues that can improve even the creation of space for future development. That's why we came up with suggestions that we think can change the face of our county in terms of land management and possibly to create space for future development.

If at all this document is adopted by this House, as a Committee, we are of the thinking that we can engage the Office of the Governor on the issue of GIS which will help us know our potentials. Some people have gone quite far and just by the touch of a button, one is able to see the land in a particular Ward and their potential.

If this report would have come earlier before we passed our 2016/2017 Budgetary Estimates, we would have had the opportunity to incorporate some things in the estimates. Maybe we can consider some of these recommendations when we shall be doing our Supplementary Budget.

What ails Siaya is one thing; we can pass very good pieces of legislations, we can do very good reports and adopt them in this House, but they are never implemented. We thought we gave the Chairmanship of the Implementation Committee to the best person and we thought he would keep those people on their toes...

(Laughter)

It is always bad to talk behind somebody's back; how I wish he was around. He should do his work; not just

dwelling on a lot of empty rhetoric and actually he doesn't even communicate to us.

Hon. Speaker: Hon. K'owii, you are within your powers to bring a Procedural Motion to discuss the conduct of a person. So, would you just proceed with your submission?

(Laughter)

Hon. Owii: Thank you very much, Mr. Speaker. You are always there to give us direction.

(Laughter)

I am not saying they are not doing much, but most of the things that we have passed as a House have not been implemented as we recommended.

As a Committee, we saw quite a lot of positive things and as a County we can take stock of the possible areas that we can improve on. Mr. Speaker, Sir, I support.

Hon. Speaker: There being no other contributors, will I call upon the Mover to reply.

Hon. Otare: Thank you, Mr. Speaker, Sir. Looking at the mood of the House, I want to appreciate Members for their support. It is quite encouraging. I just want to make few responses.

On the quarterly reports, I want to say that it does not only concern the Lands Committee but we are saying that it should also be done by other Committees so that the Assembly can get reports from the Executive.

The issue of corruption is not in our report because this is a benchmarking report and it only touches on what we observed and what we were told. They never told us anything to do with that

subject, so, there was no way we could talk about it.

Most importantly, Mr. Speaker, Sir, you find that we are always concerned about the County's revenue collection. In the County's Land Department, there is no revenue being collected. If this report is adopted, it can address this issue.

On the Bills, we are doing our best and I hope that in two weeks' time, the Lands Department will forward some Bills to this Hon. House.

Hon. Members have talked about the County's Spatial Plan and I must say that at least Kshs. 61 million was allocated for it and we are hoping for great results from that exercise.

As a Committee, we also had a concern on the public lands and even the Budget Committee refused to allocate more money for the purchase of land because we were not able to see what the previous allocation had done. We hope the Implementation Committee will give us a status report on this.

We are grateful to the Assembly for having enabled the Committee to visit these parts of the country. I cannot forget the staff we travelled with. They were very much cooperative and we appreciate them. Hon. Members, thank you for your support.

(Applause)

(Question put and agreed to)

(Applause)

Hon. Speaker: Before we adjourn, in the afternoon we should be debating the Public Accounts and Investment Committee report on their benchmarking visits. Chairman, has it been circulated or it was just laid?

Hon. Angul: No, it has not been circulated, Mr. Speaker, Sir.

Hon. Speaker: We are trying to run away from this tendency of ambushing Members with reports. I don't know how you will convince us if you circulate it now or you circulate it in the afternoon and you give us time to read it so that you present it at a later date. So, you have some homework to do with Members.

Hon. Angul: Mr. Speaker, Sir, I would appeal that it be circulated now. I am going to contact the Committee Clerk to circulate.

Hon. Speaker: You can handle that at your level but Members should be given ample time to go through the report. If you convince them, depending on how voluminous it is, they will look at it and then you can present it in the afternoon. The same applies to the report by the ICT and Tourism Committee. If you want us to debate the report tomorrow, make sure we have the copies today.

Next Order!

MOTION

ADJOURNMENT

Hon. Speaker: There being no other business, this House adjourns until 2.30 p.m. in the Chambers.

The House rose at 11.05 a.m.

WEDNESDAY, 27TH JULY 2016

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

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

PRAYER**NOTICE OF MOTION**

REPORT OF THE PIC/PAC ON THEIR
BENCHMARKING VISIT TO THE
COUNTERPART COMMITTEE AT THE
SENATE AND THE TECHNICAL TEAM AT
THE NATIONAL ASSEMBLY

Hon. Angul: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the report of the Committee on Public Accounts and Investments on their benchmarking visit to the counterpart Committee at the Senate and the technical team at the National Assembly, laid on the Table of the House on Tuesday, 19th July 2016.

However, Mr. Speaker, Sir, due to the fact that the report was circulated late and Members have not had adequate time to go through it, it is my request that the Motion be moved either tomorrow or at a later date. This is to allow all Hon. Members to comb through the document.

(Hon. Muhulah stood up in his place)

Hon. Speaker: Yes, Hon. Muhulah!

Hon. Muhulah: Mr. Speaker, Sir, I really don't think that the request by the Hon. Member is in conformity with what is desired of us in this House. Earlier in the morning, you did advise the Hon.

Chairperson to ensure that copies of the report are given to Members in advance. We need to be getting these reports early enough so as to have ample time to interrogate them. We come to this House to debate on issues and we should not be failed by a few people who are not serious with their work.

Mr. Speaker, Sir, as the Member for West Alego, I won't support the Chairperson's request. Let's dispense with the matter.

Hon. Speaker: I want to get the feeling of Members before making a determination or putting it to vote.

Hon. Ndonji: Mr. Speaker, Sir, I would like to support Hon. Muhulah's sentiments by saying that we debate the report. By tabling their report in the House, the Committee was in essence telling us that they were ready to take Members through it. So, the same Committee cannot again tell us that they want the debate to be postponed.

Mr. Speaker, Sir, I request you to decline the request because it will be creating a bad precedence. Personally, I got the report just before lunch time, managed to go through it and I am ready to debate it. Thank you.

Hon. Oriaro: Mr. Speaker, Sir, I am a member of the Committee and I believe that the spirit of the request was that Members are not on the same wavelength of understanding. There are those who have gone through the report

2016 SIAYA COUNTY ASSEMBLY DEBATES

while some have not had an opportunity to read it. If that is not the case, then we are prepared. I can even move the Motion on behalf of the Chair. We are not afraid of anything.

(Applause)

Hon. Madialo: Mr. Speaker, Sir, the Hon. Angul is my friend and he can't go unsupported. May I support him?

(Applause)

Hon. Oriaro has said that we are at different wavelengths and I am one of those people whose wavelengths are short and I would find it very difficult to debate on something that touches on accounts yet I have not seen the report. I think the context in which Hon. Angul is talking is that we should debate on something that is well understood by all of us.

Mr. Speaker, Sir, it's only a few hours to tomorrow and if we are given time to go through this report and discuss it tomorrow; I think my wavelength will have accommodated the complexities of accounts. I support.

Hon. Apiyo: Mr. Speaker, Sir, I am in support of the request by the Hon. Chairperson. As Members, we should have a mature debate. Postponing the debate to a later date will not...

Hon. Ndonji: Point of order, Mr. Speaker, Sir!

Hon. Ndonji: Mr. Speaker, Sir, from what the Hon. Member is saying, it is like all along, we have not been having mature debates in this House. So, I request that the Hon. Member substantiates what he meant or withdraws that statement.

(Applause)

Hon. Minami: Mr. Speaker, Sir, I can help my colleague, Hon. Ndonji. I think what Hon. Apiyo meant is a constructive debate. A debate where facts are laid bare. When you have not read something, you cannot debate on it constructively. Your content will not be mature.

(Laughter)

On that note, Mr. Speaker, Sir, as a member of the Committee, I want to concur with the Chairperson that we give Members time to go through the report. As a Committee, we are ready, but we are also considerate of Members who have not had access to the report which is close to thirty pages. We need to have a debate that is factual. Thank you.

Hon. Speaker: Hon. Walter, you were talking of maturity and immaturity. Do you want to say something?

Hon. Okello: Mr. Speaker, Sir, I think my point has been aptly captured. I just wanted to confirm that the content in which Hon. Apiyo was speaking was that the debate would not be mature...

(Laughter)

The debate would be immature in that context.

Hon. Speaker: Before Hon. Apiyo goes on with his contribution; I shall allow Hon. Angeline to make a contribution.

Hon. Adhiambo: Thank you, Mr. Speaker, Sir. I want to concur with Hon. Booker that we need time to go through the report.

Hon. Awino: I have my own opinion.

(Laughter)

Hon. Speaker: Yes, Hon. Zilpa!

Hon. Awino: Mr. Speaker, Sir, when we left this Chambers in the morning, you gave a direction that this report should be given to us and I managed to get a copy and I have gone through it. I also saw some Members going through the report at the Lounge. What guarantee do we have that Members will come with copies of the report tomorrow? They will go home with them and tomorrow morning they will be demanding for new copies. So, this would be an ideal time to discuss the report. Thank you.

Hon. Speaker: Yes, Hon. Augo. You know we have interrupted Hon. Apiyo.

Hon. Augo: Mr. Speaker, Sir, I would like to concur with Hon. Booker and the rest of the Members that have spoken. This House is not only for three or four Members who have read the report but also for the rest who have not read it. I believe other Members should also be given time to go through the report.

(Loud consultations)

Hon. Asewe: Mr. Speaker, Sir, the Chairperson was quite categorical. He said that some Members have not even seen the document and that is why he requested that they be given time to be acquainted with it.

Hon. Speaker: Hon. Apiyo, can you finish up on what you wanted to say.

Hon. Apiyo: Thank you. Mr. Speaker, Sir, it is true that even right now, my friend who is also my uncle, Hon. Walter Okello, does not even have this document. That applies to a number of Members too. We now have more staff, and it should be clear to them that reports should be issued out to Members at least four hours before debate. We need to

debate on something we understand. Thank you.

Hon. Speaker: Hon. Members, allow me say this; both sides of the divide have a point, but if the Mover of a Motion says that he is not in a position to move, what options are left for the presiding officer? What happens if the presiding officer insists that he moves the Motion and he refuses?

The other issue is; as some Hon. Members have rightfully said, the Standing Orders, I have been combing through it but can't get the specific reference, but I will communicate tomorrow. The Standing Orders provide the time frame within which we need to circulate the reports before we debate them. Even if I was persuaded to want to say that we proceed and it is in violation of the timeframe provisions, I shall not be guiding this House properly.

I indeed feel persuaded by the sentiments of our other colleagues who are saying that when a document is in the Order Paper and a notice has been read out, you have no business wanting more time. They are right.

Having considered all that, I want to ask myself, what this House will lose if we don't debate it today. What will it lose when we debate it today and we have people who have a concrete position that they have not had adequate time? I am persuaded to persuade you that nothing will fundamentally change. After all, it is a benchmarking report that we can debate tomorrow and even on another day.

Because the Mover had requested for an extension, we warn them that that is the last time they are asking for it. And for that matter, we are not slotting you tomorrow. Instead, the House Business Committee will consider slotting your

business sometime next week. That is the penalty.

(Applause)

So, tomorrow, we shall have reports by the Selection and Tourism Committees. If you are aggrieved, we apologize, but nothing is fundamentally wrong.

Next Order!

(Applause)

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members, there being no other business, this House stands adjourned until tomorrow, 28th July 2016 at 2:30 p.m. in the Chambers.

The House rose at 2.49 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

THURSDAY, 28TH JULY, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER

PAPERS

REPORT OF THE COMMITTEE ON
SELECTION ON RECONSTITUTION OF
BUDGET AND APPROPRIATIONS
COMMITTEE, PIC/PAC AND DELEGATED
LEGISLATION COMMITTEE AND
NOMINATION OF MEMBERS TO SECTORAL
COMMITTEE ON JUSTICE AND LEGAL
AFFAIRS

*(Hon. Gare laid the document on
the Table)*

NOTICES OF MOTION

REPORT OF THE COMMITTEE ON
SELECTION ON RECONSTITUTION
OF BUDGET AND APPROPRIATIONS
COMMITTEE, PIC/PAC AND
DELEGATED LEGISLATION
COMMITTEE AND NOMINATION OF
MEMBERS TO SECTORAL
COMMITTEE ON JUSTICE AND
LEGAL AFFAIRS

Hon. Gare: I wish to give notice of the following Motion:-

THAT, this House adopts the report of the Committee on Selection on reconstitution of Budget and Appropriations Committee, Public Accounts and Investment Committee and Delegated County Legislation Committee and nomination of members to County Sectoral Committee on Justice and Legal Affairs laid on the Table today 28th July, Thursday, 2016.

Hon. Deputy Speaker: Yes, Hon. Abayo.

Hon. Abayo: I wish to give notice of the following Motion:-

THAT, this House adopts the report of the Committee on Tourism, Wildlife Conservation and ICT on benchmarking visit to Kiambu County on revenue automation laid on the Table 19th July, Tuesday, 2016.

STATEMENT

Allow me, Hon. Deputy Speaker, pursuant to Order 40(2) to advance from the Chairperson of Governance and Administration on payment of salary and ex gratia failure of the 21 members of the defunct local authority now County Government mainly retirees namely:-

1. Meshack Obonge -
West Gem
2. Jacob Ocholla Oluoch -
North Alego,
3. Mary Atieno Awuor -
East Asembo,
4. Hellen Agola Oyugiq -
Ugunja,
5. Peter Awala -
North Ugenya,
6. Eunice Atieno Onyango -
North Ugenya,
7. Hellen Onyango Otieno -
Yala Township
8. James Wasonga Diang'a -
North Gem
9. Charles Okut -
East Ugenya
10. Mary Achieng Omuga -
Sigomere
11. Joseph Opany Omollo -
Yala Township
12. Wilkister Agalla Odenyo -
South Uyoma
13. George Angira Okello -
South Uyoma
14. Philip Ochieng Owuor -
Sidindi

2016 SIAYA COUNTY ASSEMBLY DEBATES

15. Gladys Nyaoro Odero -
East Ugenya
16. Cecilia Atieno Oyundo -
Ukwala
17. Roselyne Agwambo -
Siaya Township
18. Colleta Ogola Asawo -
Central Alego
19. George Okoth Achoki -
Siaya Township
20. Grace Apondi Ooko -
Siaya Township

...and 119 others some of whom are now deceased. In this statement the Hon. House wishes to beseech the nation to address the following. Why there was delay in the payment of their salaries and reasons for the failure to pay the money. The challenges that the County Government may experience in processing the payments and the strategies that the County Government has put in place to contact families of the retirees who have since passed on before getting their arrears and how they will be compensated. Going by the weight and urgency of this statement I leave it within your powers and direction on the number of days the answers will be expected. Thank you.

Hon. Deputy Speaker: Thank you, Hon. Oriaro, from your own Statement, the written Statement vis-à-vis the verbal Statement you have indicated that pursuant to Standing Order 40 (2) I beg to seek a Statement from the Chairperson of Government and Administration on the payment of salary arrears of 21 members whose list is here annexed. You have added verbally things that I don't see mentioned here do you wish to amend your statement.

Hon Oriaro: Mr. Deputy Speaker Sir, to err is human and traditionally such like Statements are done by the legal team. Most of us are conversant with it so such like mistakes are emanating from the legal team.

Hon. Deputy Speaker: Are you seeking a Statement on the position of salaries plus ex gratia?

Hon Oriaro: Yes, ex gratia Hon. Deputy Speaker.

Hon. Deputy Speaker: Yes, Hon. Kawuor, the Chairperson of Governance and Administration, do you have any response or you need more time?

Hon. Awuor: Thank you, Mr. Deputy Speaker, Sir, taking into consideration that I have just received this statement today; I need time to consult with the executive authorities concerned and also meet Members. I would request that you give me 3 weeks to do this. Thank you.

Hon. Deputy Speaker: You can see that the Members affected, I believe are the ones in the public gallery. They would really wish that this matter is dealt with expeditiously and I think it is within our Standing Orders, Hon. Members and it is adequate time for the Committee on Governance and Administration to seek information and do consultations so that they bring us a report. So, within 21 days that will be on 18th August we need a report.

Hon. Agoko: Mr. Deputy Speaker, Sir, just on the same subject, I had made a similar Statement in this House about 8 months ago and no response has been given to date. It was committed to the Committee of Finance and Budget on the subject and to date there has been no response. I want to urge the Chair that this particular time it be given a lot of seriousness.

Hon. Deputy Speaker: Maybe we can start with yours and I shall urge the clerks to fasten the report that Hon. Agoko is talking about if at all there is any.

Hon. Agoko: Mr. Ochieng Charles was in that desk and probably can clarify.

Hon. Deputy Speaker: He can fast track the same so that if it is ready then any time it can be presented to the House for discussion.

MOTION

2016 SIAYA COUNTY ASSEMBLY DEBATES

**REPORT OF THE COMMITTEE ON
SELECTION ON RECONSTITUTION
OF BUDGET AND APPROPRIATIONS
COMMITTEE, PIC/PAC AND
DELEGATED LEGISLATION
COMMITTEE AND NOMINATION OF
MEMBERS TO SECTORAL
COMMITTEE ON JUSTICE AND
LEGAL AFFAIRS**

Hon Gare: Thank you, Hon. Deputy Speaker, I wish to move this Motion:- THAT, this House adopts the Report of the Committee on Selection on reconstitution of Budget and Appropriations Committee, Public Accounts and Investment Committee and Delegated County Legislation Committee and nomination of members to County Sectorial Committee on Justice and Legal Affairs laid on the Table today 28th July, Thursday, 2016.

On behalf of the Committee of Selection and on behalf of the Chairman the Leader of Majority Hon. Edwin Otieno who is not here today, I have the honor and pleasure to present to you a Report of the Committee on Selection on reconstitution of Budget and Appropriations Committee, Public Accounts and Investment Committee and Delegated County Legislation Committee and nomination of members to County Sectorial Committee on Justice and Legal Affairs laid on the Table today 28th July, Thursday, 2016. I want to thank Members for their contribution during the Committee Sitzings.

PREFACE

On behalf of Members of the Committee on Selection and pursuant to the provisions of Standing Order no. 162(1), it is my pleasure and duty to present to this Honorable House, the Committee's Report on the reconstitution of County Budget and Appropriations Committee, Public Accounts and

Investment Committee, Committee on Delegated County Legislation and Nomination of Members to County Sectorial Committee on Justice and Legal Affairs

Committee Membership

The Committee on Selection was constituted by this Honourable House on Tuesday 30th April, 2013. It is made up of the following Members:-

1. Hon. Edwin Martin Otieno
-(Leader of the Majority Party) Chairman
2. Hon. John Ombewa Gare
-(Chief Whip) Vice Chairman
3. Hon. William Owiti Angul
- Member
4. Hon. Joseph Agoko
- Member
5. Hon. Jack Odinga
- Member
6. Hon. Nicholas Ayima Were
- Member
7. Hon. Joshua, A. Osuri
- Member
8. Hon. Elisha Okuku
- Member
9. Hon. Booker Otieno
- Member
10. Hon. Charles Omollo Kowii
-Member
11. Hon. Pius Ogutu Ombiyo
-Member

Committee Mandate

2016 SIAYA COUNTY ASSEMBLY DEBATES

The Committee on Selection is one of the Select Committees established under Standing Order no. 162(2) with the mandate to nominate members to serve in the Committees, save for the Membeship of the House Rules and Business Committee and Committee on Appointments.

Standing Orders that guided the Committee during Reconstitution and Nomination of Members to the Aforementioned Committees.

While undertaking its mandate, the Committee took into consideration the following provisions of the Standing Order;

1. Standing Order no. 163(1) which states that, unless otherwise provided by any written law or these Standing Orders, the Committee on Selection shall, in consultation with Assembly Parties, nominate Members who shall serve on a Select Committee.
2. Standing Order no. 164(1) that, in nominating Members to serve in a Select committee, the Selection Committee shall ensure that the membership of each Committee reflects the relative majorities of the seats held by each of the Assembly Parties in the House.
3. Standing Order no. 164(3) that, except as the House may otherwise resolve, on the recommendation of the Committee on Selection for reasons to be stated, no Member shall be appointed to serve in more than three Sectorial Committees.
4. Standing Order no. 167 that, subject to any written law, these Standing Orders or a resolution of the House, a select committee shall

consist of an odd number of Members, not being less than seven and not being more than eleven.

Reconstitution of Members of County Budget and Appropriations Committee

Mr. Deputy Speaker Sir, the Committee on Budget, Appropriations, Planning and Vision 2030 was to be reconstituted after the elapse of three years pursuant to Standing Order no. 197(3). Standing Order no. 197(2) states that the functions of the Committee shall be to-

- a) Investigate, inquire into and report on all matters related to coordination, control and monitoring of the county budget,
- b) Discuss and review the estimates and make recommendations to the Assembly,
- c) Examine the County Fiscal Strategy Paper presented to the House,
- d) Examine Bills related to the County budget, including appropriations Bills, and
- e) Evaluate tax estimates, economic and budgetary policies and programs with direct budget outlays.

Mr. Deputy Speaker Sir, taking into consideration the provisions of the relevant Standing Orders, the Committee recommends that:

2016 SIAYA COUNTY ASSEMBLY DEBATES

The following be members of the County

Budget and Appropriations Committee;

1. Hon. Jack Odinga
2. Hon. Peter Muhula
3. Hon. Joseph Kawuor
4. Hon. James Otare
5. Hon. Jared Abayo
6. Hon. Sylvester Madialo
7. Hon. Nicholas Aneme
8. Hon. William Angul
9. Hon. Margaret Oketch

**Reconstitution of Members of Public
Accounts and Investment Committee**

Mr. Deputy Speaker, Sir, the Committee on Public Investment and Public Accounts was to be reconstituted after the elapse of three years pursuant to Standing Order no. 196(3). Standing Order no. 196(2) states that, the Public Accounts and Investment Committee shall have two functions-

- a) Examination of the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit; and
- b) Examination of the working of the public investments.

Mr. Deputy Speaker Sir, taking into consideration the provisions of the relevant Standing Orders, the Committee recommends that:

The following be members of the Public

Accounts and Investment Committee;

1. Hon. William Angul
2. Hon. Fred Odhiambo
3. Hon. Nicholas Aneme
4. Hon. Jack Odinga
5. Hon. Leonard Oriaro
6. Hon. Pius Ombiyo
7. Hon. Booker Otieno
8. Hon. Elisha Okuku
9. Hon. Beatrice Obondo
10. Hon. Maurey Asewe
11. Hon. Pamela Ngure

**Reconstitution of Members of County
Committee on Delegated County Legislation**

Mr. Deputy Speaker Sir, the Committee on Delegated County Legislation was to be reconstituted to meet the requirements of Standing Order no. 167 which outlines that a select committee shall consist of an odd number of Members, not being less than seven and not more than eleven.

Standing Order no. 199(2) states that, the Committee on Delegated County Legislation shall deal with any statutory instrument submitted to the House pursuant to the Constitution, any law or these Standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the House by the chair of the relevant sectoral committee, or any other Member and shall thereafter

2016 SIAYA COUNTY ASSEMBLY DEBATES

stand referred to the Committee on Delegated County Legislation.

Mr. Deputy Speaker Sir, taking into consideration the provisions of the relevant Standing Orders, the Committee recommends that:

The following are members of the Delegated County Legislation Committee;

- 1 Hon. Sylvester Madialo
- 2 Hon. Booker Otieno
- 3 Hon. Peter Muhula
- 4 Hon. Fred Odhiambo Ouda
- 5 Hon. Andrew O. Omwende
- 6 Hon. Stephen Ouma Adera
- 7 Hon. Hilda Achieng Otieno
- 8 Hon. Pamela Akinyi Midumbi
- 9 Hon. Walter Ochieng Okello
- 10 Hon. Teresa Akumu Osore
- 11 Hon. Margaret Odima Olongo

Nomination of Members to County Sectoral Committee on Justice and Legal Affairs

Mr. Deputy Speaker Sir, the Committee on Selection was tasked to Nominate Members to the County Sectoral Committee on Justice and Legal affairs courtesy of the provisions of the Standing Order no. 200(1) on appointment of Sectorial Committees.

Second Schedule of the Standing Orders states that the Committee shall deal with all matters related to administration of law and justice, constitutional affairs

including elections, ethics, integrity and anti-corruption and human rights.

Mr. Deputy Speaker Sir, taking into consideration the provisions of the relevant Standing Orders, the Committee recommends that:

The following be Members of the County Sectoral Committee on Justice and Legal Affairs;

1. Hon. Walter Okello
2. Hon. Booker Otieno
3. Hon. Sylvester Madialo
4. Hon. Stephen Kadera
5. Hon. Samuel Olasi
6. Hon. Jack Odinga
7. Hon. Margaret Adhiambo Oketch
8. Hon. Pamela Ngure
9. Hon. Rose Okite
10. Hon. Rosemary Ogutu
11. Hon. Angeline Odhiambo

Conclusion

Mr. Deputy Speaker, Sir, allow me to point out that Finance component has been moved from Budget, Appropriations, Planning and Vision 2030 Committee to the County Sectoral Committee on Trade, Industry, Labour and Cooperatives. The mandate of Finance, Trade, Industry, Labour and Cooperatives Committee will be outlined later after further consultations. It is now my pleasant duty and privilege, on behalf of the Committee on Selection,

2016 SIAYA COUNTY ASSEMBLY DEBATES

to Table this Report to this Honorable House and recommend it for adoption.

(Question proposed)

Hon. Oriaro: Thank you, Hon. Deputy Speaker, Sir. As you so pray, I want to make a remark that Siaya County—

Hon. Deputy Speaker: I have not made any prayer, Hon. Oriaro.

(Laughter)

Hon. Oriaro: Hon. Deputy Speaker, Sir, the prayer is either we adopt the report or not.

Hon. Deputy Speaker: I have not made any prayer! Just make your proposal.

Hon. Oriaro: Thank you. I want to remark that Siaya County and her industrious people are one engine that can only be set into a turn - table motion and work by a ---. It is well known that an engine cannot move without proper lubrication and fuelling. By the definition of devolution, our Assembly occupies the space of oil and fuel for seeing the County work and can only do this by having highly technical men and women in relevant House Committees. In the area of budget, we have been talking of assigning programs to money. This has been a very tedious area where impeccable men and women are required. I kindly request Hon. Members to pass the names of members of the Budget Committee because these are the people we need.

In the area of public accounts, I am an anticorruption crusader by birth and a believer that the people can only enjoy services if monies are used well. So, this Committee needs hawk- eyed men and women; and fortunately, I am one of them.

The rest of the members are equally qualified. I agree with the list.

Lastly, Mr. Deputy Speaker, Sir; we have lagged behind in the area of transforming tools formerly used by the defunct local authorities for easy use by the County. It is the duty of the Delegated Legislation Committee to come forth and check on the issue. Alongside other members, we can see lawyers in the Committee and we believe they will perform.

Mr. Deputy Speaker, Sir, Central Alego supports the report.

(Applause)

Hon. Deputy Speaker: Any other Member wishing to contribute?

(Hon. Omondi stood up in her place)

Hon. Omondi: Thank you, Mr. Deputy Speaker, Sir. This report is on reconstitution of some Committees and to the best of my knowledge, to reconstitute means doing it afresh. After three years we start again. I have a problem with the Budget Committee. It does not meet the constitutional threshold. The two thirds gender rule has not been taken into account and reasons should be given as to why that cannot take place. The first time it happened because nominated Members were not around but now that they are here, we need reasons why this Committee cannot have more than one lady. We want a concrete explanation!

I belong to three Committees and I wonder why they consist of thirteen members while other Committees have nine or eleven members. I would appreciate an explanation from the Selection Committee on why they did this.

Hon. Deputy Speaker: Hon. Zilpa, on the second concern, I would wish to refer you to the Standing Orders on reconstitution of certain Committees. It is not uniform that all Committees must have the same number of members. Kindly consult the Standing Orders.

Hon. Omondi: But for the Budget Committee, it was read some time back that it can consist of either nine or eleven members. I sit in the House Business Committee and we are more than eleven members.

Lastly, Mr. Deputy Speaker, Sir, I would like to request that we be given a document containing all Committees and their membership. You find that some Members belong to four Committees; others have five or six while others have three. We don't understand how and why some Members have more Committees than others. There must be equity in this House! Some people should not be favored over others! Thank you.

Hon. Ndonji: Thank you, Mr. Deputy Speaker, Sir, for granting me the opportunity to also say something about the Motion on the Floor. First I would like to say that I am in support of this report though I feel there were some other issues that were to be looked into. In the report you find that when it comes to some other Committees, there is clear reference on their mandates as enshrined in the Standing Orders; but when it comes to a very important Committee called Budget and Appropriations, there is no reference at all.

For example, when you go to page-
--

(Laughter)

Mr. Deputy Speaker, Sir, I am still trying to figure out where it is, but I am almost getting it.

Hon. Deputy Speaker: Can we give chance to another Member as you look for it?

Hon. Ndonji: No! I am almost getting it!

Hon. Deputy Speaker: Should we give you more time?

Hon. Ndonji: Yes, I need some time.

Hon. Deputy Speaker: As we give you time to look into that, we can give chance to another Member who is ready. I'll give you time later, Hon. Ndonji.

Hon. Ndonji: Ok, Mr. Deputy Speaker, Sir.

Hon. Deputy Speaker: Yes, Hon. Anastasia

Hon. Augo: Thank you, Mr. Deputy Speaker, Sir. First of all I wish to appreciate the Selection Committee for this report. As some of my colleagues have said, reconstitution of Committees meant that all Committees were to be overhauled and be constituted afresh. We have been saying that we need to have at least three female Members in the Budget Committee and the Hon. Speaker told us that after three years, there will be reconstitution of Committees and we shall be considered. Looking at this list, that promise has not been kept. We have not been considered. That Committee really needs another lady.

Secondly, Mr. Deputy Speaker, Sir; as my other colleague said, we need to be furnished with a list of House Committees and their membership. This is because there are Members with more than four Committees yet the Standing Orders discourage that. We want everybody to be favored, not only a few.

Hon. Ndonji: Point of order, Mr. Deputy Speaker, Sir!

Hon. Deputy Speaker: What is it, Hon. Ndonji?

Hon. Ndonji: Mr. Deputy Speaker, Sir, the report we are currently discussing talks about reconstitution of Committees; bringing in other issues outside the report is not in order. There are better forums to handle such issues.

Hon. Augo: What is your point of order?

Hon. Ndonji: My point of order is that the Hon. Member is out of order!

Hon. Deputy Speaker: Hon. Augo, can you continue!

(Laughter)

Hon. Augo: Thank you, Mr. Deputy Speaker, Sir, for protecting me. I wanted to highlight that as female Members of this House, we should be considered in the Budget Committee. We cannot only have one lady in that Committee. She is representing people with disabilities; she is not representing the interests of ladies. Thank you.

(Loud consultations)

Hon. Deputy Speaker: Before other Members contribute, allow me to make the following clarification. We are not reconstituting all Committees. I think all of us attended some workshop where we learnt that we committed some mistakes earlier on and to correct them, we had to reconstitute some Committees. The Budget, Finance and Appropriations Committee and the Delegated Legislation, Justice and Legal Affairs Committee had to be split into two. That is what has been done. Hon. Members, we are not reconstituting all Committees.

On that note, allow me to read to you what Standing Order No. 165 (2) says:- Whenever a Motion for approval of a list under paragraph (1) is moved in the House, no objection against the proposed membership of a Member in a select Committee shall be permitted and objections, if any, shall be formulated against the proposed membership as a whole.

(Applause)

In essence, I don't want to gag Members in exercising their democratic right of either supporting or opposing the Motion, you have the final say; but the Standing Order says that at this point in time you cannot even make an amendment to it. So, it's either you pass it the way it is or reject it wholesomely. Hon. Ndonji, you can now continue.

Hon. Ndonji: Mr. Deputy Speaker, Sir, probably you don't want to gag us but seemingly, the Standing Orders are gagging us on this issue.

Hon. Deputy Speaker: Hon. Ndonji, the Standing Orders were passed in this House by Members, you included. You know what to do if you feel they are oppressive.

Hon. Ndonji: Mr. Deputy Speaker, Sir, what I wanted to raise at that time is that when you go to page seven of the report which talks about reconstitution of members of the Committee on Delegated County Legislation, the Committee in their report clearly stated that the Delegated County Legislation Committee was to be reconstituted to meet the requirement of Standing Order No. 167 which outlines that a select committee shall consist of an odd number of Members, not being less than seven and not being more than eleven. Mr.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Deputy Speaker, Sir, you realise that this has not been taken into consideration when reconstituting these other Committees. It is silent and that makes us wonder whether the right thing has been done when dealing with these other Committees.

Mr. Deputy Speaker, Sir, I also want to echo the sentiments of other Members regarding the one third gender rule. In some of these Committees, the constitutional requirement has not been taken care of. For that reason, I stand to reject the report, Mr. Deputy Speaker, Sir.

(Applause)

Hon. Owii: But we knew—

(Laughter)

Hon. Deputy Speaker: Order, Hon. K'owii! Order!

(Laughter)

(Loud consultations)

(Hon. Ndonji stood up in his place)

Hon. Members, let us have one House. Hon. Ndonji, I shall throw you out of the House if you continue interfering with other Members.

Hon. Ndonji: Mr. Deputy Speaker, Sir, please don't throw me out.

(Laughter)

Hon. Deputy Speaker: Order! Hon. Booker, would you proceed.

Hon. Minami: Thank you, Mr. Deputy Speaker, Sir. As a member of the Selection Committee, I must say that in coming up with this report; we were guided by the Standing Orders of this Hon. House. On the reconstitution of the Committee on Budget and Appropriations and the Public Accounts and Investment

Committee, the Standing Orders are very clear that after three years they have to be reconstituted. Reconstitution means bringing names, and as the Standing Orders say, we either pass them or reject them.

Mr. Deputy Speaker, Sir, the same Standing Orders say that these Committees should have a membership of between seven and eleven. So, if a Committee has seven or eleven Members, then there is no law that has been abused.

Hon. Omondi: Point of order, Mr. Deputy Speaker, Sir!

Hon. Deputy Speaker: Yes, Hon. Zilpa. Hon. Booker, kindly take your seat.

Hon. Omondi: It can be seven or eleven; but the one third gender rule must be strictly adhered to. The Constitution is supreme to the Standing Orders!

(Applause)

Hon. Deputy Speaker: Are you making a contribution or standing on a point of order?

Hon. Omondi: I was standing on appoint of order that---

(Laughter)

The Standing Order says that members should either be seven or eleven; but I am saying that there is the one third gender rule.

Hon. Deputy Speaker: Hon. Members, I think we need to differentiate between making a contribution and rising on a point of order. When you rise on a point of order, you need to state the Standing Order you are rising on. Otherwise, you may be making a contribution under the pretext of a point of order. I can see Hon. Zilpa laughing; she had already made a contribution on the

2016 SIAYA COUNTY ASSEMBLY DEBATES

same issue. Let's avoid being repetitive. Hon. Booker, you were on your feet; can you proceed. I can see Hon. Zilpa laughing; she had already made her contributions on the same issue. Hon. Booker, can you proceed!

Hon. Minami: Thank you, Mr. Speaker. I think it is very clear in whatever the Committee had done and that is the way we have been operating. If somebody wanted other Members to be in the Committee, for example if the Budget Committee had 9 Members and you want it to be 10, it is not automatic that it is going to be ladies, maybe they can add more men.

What is important is that we meet the requirement of the Standing Orders which is either 7 in the least or 11 the most. I think that one is very important. The Standing Orders, if whatever the Hon. is saying is right, I want to give you an example of the National Assembly, where we have less than 100 women MPs and we have more than 300 men. Does it mean that now if a Committee of 27 Members, is it a must that you meet, what is important is that you follow the Standing Orders.

Hon. Deputy Speaker: Hon. Booker, can you address the Speaker!

Hon. Minami: Yeah, I am addressing you.

(Laughter)

Hon. Minami: The Standing Orders are very important, that is what helps us but if we want to take the Constitution the way it is written and you bring it here in the Assembly, then I want to assure this House that we are not going to implement majority of the things that we are supposed to implement.

Hon. Deputy Speaker: Hon.

Booker, you are wrong on that note

(Applause)

Hon. Booker, the Constitution is supreme. When the Constitution stipulates that we must obey gender rule or any other law, that one must be obeyed!

(Applause)

Hon. Members, I want to make it clear that the Constitution is supreme, in fact supreme to the Standing Orders we are talking about, even to the Assembly itself, and the Court. Just a couple of weeks ago, the Court reinstated Hon. Wandayi to the National Assembly and you saw the Speaker trying to come through the window that Hon. Wandayi could not be absorbed back to the Assembly simply because the Speaker thought that the Assembly rules were Supreme. But upon realization that they were becoming vague, they decided to allow Hon. Wandayi back to the Assembly.

In our point in question, my hands are tied, I cannot tell you where to vote. If you go by the Standing Order number 165, part II, you will realize that the Standing Orders dictate at this particular time that once the list has been presented, it is either you pass it or reject it as it is. So, let us go by that, Hon. Members but let us not pretend that the Standing Orders can be superior to the Constitution.

(Applause)

Can you precede, Hon. Booker!

Hon. Minami: Thank you, Mr. Speaker and I stand guided. I think you have given us the right direction, it is upon

2016 SIAYA COUNTY ASSEMBLY DEBATES

us to either decide to reject or to adopt and in doing so, you should consider the recuperations of what we have done either by rejecting or by adopting it.

what I will request my colleagues is that these Committees are very important and I think that if any anomaly has been detected or identified, I think there is always time that they can be corrected. It is better to accept whatever we have and then make amendments so that we rectify if indeed we have mistakes that have been made by the presentation that has been brought here by the Chair of the Committee.

Finally, I want to say that it is very important that sometimes...

Hon. Nguire: Point of order, Mr. Speaker!

Hon. Deputy Speaker: Hon. Nguire, what is your point of order!

Hon. Nguire: There is a point of clarification, Mr. Speaker.

Hon. Deputy Speaker: You want to make clarification or a contribution?

Hon. Nguire: I would like to make a clarification.

Hon. Deputy Speaker: Okay proceed!

Hon. Nguire: Or I need clarification. Please guide me, my understanding when a Motion can be debated in the House or rejected, there is also that part that it can be withdrawn and that is not as serious as rejecting it.

Hon. Deputy Speaker: Okay, that will depend on the Chair. Can you take your seat! If that Committee feels that there are some issues that they need to iron out, they can withdraw the report, we have always done it. He can request to withdraw it but he must seek the authority of the other Members. Are you a Member of that Committee on Selection?

Hon. Nguire: I am a Member of this House which is debating this report.

Hon. Deputy Speaker: Okay, you can consult with the Chair; if he accepts to withdraw the report then the Assembly will decide. Hon. Members, before we proceed, allow me to recognize the presence of Hon. Members from Vihiga County Assembly who are in the Speaker's gallery and I wish to recognize their presence.

(Applause)

They did come to benchmark with our Powers and Privileges Committee and I wish to call their names one by one so that we can appreciate them. I will start with;

1. Hon. Pauline Amwatia -
Chairperson, Powers and Privileges Committee
2. Hon. Anago Gladys -
Member of the Speaker's Panel
3. Hon. Pamela Amunga -
Member, Speaker's Panel
4. Hon. Venah Saisha -
Vice Chair, Public Administration
5. Miss Evelia Josephine -
Staff, Vihiga County Assembly
6. Miss Fridah M. Mbatia -
Staff, Vihiga County Assembly
7. Miss Damaris -
Staff, Vihiga County Assembly

(Applause)

The Hon. Members are asking, where is the Constitutional requirement?

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Laughter)

It is unfortunate that they are in the Speaker's gallery; if they were in the Plenary, I think we would give them a chance maybe to explain to us why they did not obey the gender rule requirement in the Constitution.

(Laughter)

You can see in Siaya, women are fighting that they want the gender rule to be observed, I don't know whether in Vihiga men are crying of foul play.

(Laughter)

We appreciate you Hon. Members from Vihiga, we welcome you and anytime you feel welcome in Siaya. Thank you. Back to our normal Business, Hon. Booker!

Hon. Minami: Mr. Speaker, I think I should finish because a lot of interruptions have been made. What I wanted to say last is that sometimes it is very important that when we are debating, the language we use and the words we use should be making sense in this Assembly. One of our colleagues, he has left, but when I was checking the words that he was using here, I don't know why I am going to that! I support the report and I urge our colleagues to support it, thank you.

(Applause)

Hon. Deputy Speaker: Thank you. I think each and everyone has a democratic right of either supporting or rejecting, so let us not throw words to other Members for either supporting or rejecting. It is our democratic right,

whether you support, nobody should tell you shame on you, whether you are objecting, nobody should tell you shame on you because another time when you will be making your contributions you will also expect the same respect from other Hon. Members. So, on that note, Hon. Zilpa I wish to request you to apologize and withdraw the word shame on you.

Hon. Omondi: I apologize and withdraw.

Hon. Deputy Speaker: Okay, thank you. Hon. Elisha Okuku!

Hon. Okuku: Thank you, very much, Mr. Speaker, Sir. I am on my feet to support the document and I want to appreciate the work of this Committee on Selection. It has been a cumbersome duty but they have reached a position where they have come to the Plenary so that the decision can be taken and made from here. Allow me also to appreciate and to say that the Constitution of Kenya 2010 is supreme to any Standing Order and to any institution. The Constitution is the mother and the creator of any institution.

The reason why I am supporting this report is that we looked at every corner and the demands of the Hon. Members towards Committees and I sit in this Committee on Selection and we were also being guided by the Standing Orders which say that you should not have more than 3 Sectoral Committees. If you look at every Member of this House, almost everybody has more than 3 Sectoral Committees.

That is why I feel that I am conscious to support this list. I want to say that choices have consequences and Members are free to vote but as I stand, I want to support and give all my support to this list. I want to say that sometimes institutions like Assembly is bigger than

by individuals and we must move on with the precedent of the Assembly and that is why I support the list. Thank you, very much.

Hon. Deputy Speaker: Hon. Awour!

Hon. Awour: Thank you, Mr. Speaker. I am on my feet to support this report and I want to thank the Committee on Selection for a well done job. This thing has been there for a very long time and this was an opportunity I have seen my sisters who are now saying that they never saw their names in the Budget Committee. As my colleagues have stated, we are guided by the Standing Orders which we sat here, looked and adopted. I don't see the reason, it is always important to accept something that is given to you then you ask for others. The right hand should take and the left should request ---

Hon. Augo: Point of order Mr. Speaker.

Hon. Deputy Speaker: What is your point of order Hon. Augo?

Hon. Augo: Mr. Speaker, is it in order for the Hon. Member to stand and say that some of the Members have not seen their names in the Budget Committee and that is why they are complaining and it has been there for a very long time? We have really fought for this thing for a very long time!

Hon. Deputy Speaker: Hon. Awour, did you indicate that some Members are opposing the list because they have not seen their names?

Hon. Awuor: Mr. Speaker, I did not talk about the opposition of this list because I have not seen any opposition. I am talking on the debate of this, whatever I am given by right, I should ask for more by left and that is a straight forward statement that I have made. That should

not constitute to mean that I have said some Members who never saw their names in the list of the Budget Committee are complaining. I want really to urge our colleagues that this is a good list, let us adopt this and when finishing, I want to appreciate what the Committees have been doing and I just urge that we pull up our socks in areas that we may not have high marks. I am happy because this Committee that has been created, I have seen quite a number of my good friends, and I think this is going to help us in some work which ---.

Hon. Deputy Speaker: You are happy because you have seen a number of your good friends?

Hon. Awour: All the Members of this House are my friends. I wanted to appreciate that because we are having quite a number of Committees, the work load is now going to be reduced. I support and I thank the Committee.

Hon. Deputy Speaker: Thank you. Hon. Ngure!

Hon. Ngure: Thank you, Mr. Speaker. I must appreciate the work that has been done by this Committee on Selection and I now feel that indeed it was a difficult task as some of our Members here have said. If in the end this Committee has failed to respect the Constitution and dwelt mainly on the Standing Orders then they might have found it very difficult to do

(Applause)

Because I think earlier on and I say this even as I stand a risk of being told I have found my name missing in the list of Committees that I requested to be included.

If this is what happened that we are asked which Committees Members prefer to join and in the end the Selection Committee did what they thought fit then what was the use of even asking Members to indicate which Committees they would like to join. And if in doing that then they could not even follow the Constitution which is supreme, then they really had such a difficult task and we need to help them out. We need to help them out by withdrawing this list and asking them to go and have a look at it again.

(Applause)

I know that in this Assembly, I am the one that has suffered the most in regards to the least number of Committees that I serve in. Thank God, I have now been added in one other Committee. But it does not help me if this is done unconstitutionally, if you obey so much the Standing Orders, we should obey with our lives the Constitution.

How come that in some of these Committees, the Membership is quite proportionate with the requirements of the Constitution? And then how come that in the Budget Committee it was just left the way it was? There is only one lady Member in the Budget Committee. How do we explain this? If they have the time to re-shuffle these Committees, to re-shuffle the Members and make sure the other Committees were gender representatives,

If you so obey the standing orders then the same way we should obey with our lives the Constitution. How come that in some of these Committees the Membership is quite proportionate with the requirement of the Constitution while in the budget Committee things are left the way they were? There is only one lady

Member in that Committee, how do we explain this? If they had the time to reshuffle these Committees well then they could have ensured that gender representation would have been dealt with once and for all. What is so special about this Budget Committee that they failed to include other Members and they have not even convinced us why they should not be involved in the Budget. As I continue to suffer, I suggest that this list be withdrawn if not amended...

Hon. Deputy Speaker: Hon.

Ngure, I strongly believe that you know how to move a motion for an amendment, when you suggest that the list be withdrawn, that's just a suggestion not an amendment that the chair or the mover can either ignore or buy. I had indicated that if you want the lists to be amended, then you just consult with the mover and convince him in camera so that he makes a proposal to withdraw before the Assembly. I would say due to gender balance let Hon. Angela proceed.

Hon. Achieng': Thank you, I am on my feet to support this report and I want my colleagues to support it too. Thank you Hon. Members for also supporting me, I was quarrelling over my name missing in other Committees because am only in 3 Committees yet when I opened page 8 of the report I saw my name.

(Applause.)

Hon. Deputy Speaker: what is your point of order, Hon. Consolata Ajwang!
Order! Order! Order Hon. Members!

Hon. Ajwang: Is it in correct for Hon. Member to say that she has seen her name and that's why she is supporting the report?

Hon. Deputy Speaker: Order! Order Hon. Members and take your seats! Making a contribution can be confined within the report and if the report has mentioned your name and that may be the

reason for you to support it, then it is in order.

Hon. Angeline you can precede.

Hon. Achieng’: I want to tell Hon. Ajwang that am so happy.

Hon. Deputy Speaker: we have another report Hon, Members therefore I want to give you only one minute then Majority leader will follow with two minutes.

Hon. Ochieng: Thank you, I want to start by supporting the Committee on Selection for having done well and presenting a good report before us. I want to believe that all these Members in Committee are members who were elected by their people in their irrespective Wards. Before we go further am a Christian, in the Bible the Constitution has never been changed and it’s biblical because even Jesus had 12 disciples with no gender considerations.

Hon. Deputy Speaker: What is your point of Order Hon. Muhula?

Hon. Muhula: This is a House of rules and procedures and at the same time bestowed with the responsibility of enacting laws as well as amending them, could it be right for the Member to mislead the House that the Constitution cannot be amended?

Hon. Deputy Speaker: Hon. Muhula you are out of Order! Let Hon. Willis continue.

Hon. Ochieng’: I want to conclude by saying that I support the report and I urge the Members whose names are in the list to perform their duties as recommended by this Honorable House. Thank you.

Hon. Deputy Speaker: Hon. Majority leader first, then I give the mover two minutes to respond. Hon. Kowii get ready I will give you only two minutes please.

Hon. Ngure! Hon. Kowii, just have a seat.

(Loud consultations.)

Hon. Deputy Speaker: Hon. Members it’s her right and it’s the Speaker to making a ruling, can you proceed.

Hon. Ngure: There was a point that I wanted to clarify but it skipped my mind that our visitors from Vhiga were both men and women and indeed men were 1 1/3 of the group except that some of them have come to the Plenary.

Hon. Deputy Speaker: Hon. Owii, can you proceed.

Hon. Owii: I think two minutes is sufficient for a Majority leader, first I want to add my voice to the team that has seen that we need to see this report through. It was a bit unfortunate that the team who came here earlier was comprising almost only men except one lady and it was quite unfortunate and don’t think it will happen again, we are praying for it come 2017. What am I trying to say? It will only be useful if you are in a Committee and you are adding value. The same goes to the dear ladies, you need to be in the Committees and it is true we need you, but you must also add value which is very key.

I know that the Constitution is supreme and in fact when we were trying to come up with the amendment of this particular standing order, we would have come up with what is in the Constitution which of Couse have been enshrined here and nobody would actually change it. I want to request either side to come up with an amendment of how we can address this gender issue in the future in the standing orders, so that we give room to our dear ladies and share with them only that I cannot be a lady.

I would urge my colleagues that come 2017 to show changes because if it is a matter of attending the Committees people come very early, I don’t know if it is greed or love for the duty because the attendance number is always to the maximum. I want to request that we try to weigh our standing orders and not just say it is the Constitution, we should obey the standing orders and if in case we see any omission let try to make those changes

which can accommodate all of us. It is actually addressed in this particular report, but there is a window, I think in the Select Committee whose time has elapsed.

I would urge that when time comes and it should be soon the Appointment Committee should consider our dear ladies in this particular Committee because it is as good as the Budget Committee. I also want to confirm that I wanted to be in the Budget Committee but I was told that it is hard because you must bring value and my discipline dose not much with the Committee, thank you and I support.

Hon. Deputy Speaker: Hon. Ngure, your point of order has been declined, the chair has made an observation that you normally stand up on a point of order.

(Loud consultations)

Hon. Deputy Speaker: May the mover take the floor.

Hon. Muhula you are very much aware that you just joined the House about 20 minutes ago and it's not a must that you contribute because we operate within time, seat down or else we will throw you out of the House. You talk of standing orders and you are the same person not following them, once I have called the mover no one else can contribute. Can the mover continue to reply the House!

Hon. Gare : Thank you, first and for most I want you to give me some protection because some Members are pointing at me just because I moved a motion as if it's only me who made this report while this is a report was brought up by a Committee comprising of Members not just Gare as chair. I want to thank the Members, who have contributed both the ones that have supported and those who have opposed. One, I want to say that this report was not to be fought for as some Members have put it here that they have fought for it for so many years, it is in the standing orders that after three years we

need to reconstitute the Committees and bring it before you here.

Next, I want to tell the Members that for the Budget Committee, the list that we have brought here are names that we want the House to accept or reject. I want to request Members here that there are certain Committees that we need to reconstitute again, but they need to be brought by the House Business Committee and not Selection Committee, so when that time comes you will also be there and get your chance.

It's the same Members who have been complaining that they have fewer Committees and when we create and add them another Committee, they don't want now they only want the Budget Committee. Surely are we serious because if anything in the new Committee the ladies ratio is 5 against 11, is that bad? No very good.

So, you should appreciate these Hon. Members. So we are going to bring another one and that's the time that some of you who have been wanting to be chairs can also have an opportunity to chair these Committees, therefore I request you Hon. Members that you follow what the standing orders dictates and let us not withdraw this list. Thank you, I don't have much to say and I just hope that you will adopt this report, may God bless you.

(Question put and agreed to)

(Applause)

MOTION

Hon. Abayo: Thank you, I rise to move the following Motion:-

THAT, this House adopts the report of the Committee on Tourism, Wildlife Conservation and ICT on their benchmarking visit to Kiambu County on Revenue Automation, Laid on the table of the House on Tuesday, 19th July, 2016.

We have copies of this report and we had envisaged that this report would be made available in good time and of cause

this particular report came late, I would like to request that with your permission ,allow that Members be given opportunity to go through it and be debated on Tuesday.

(Applause)

Hon. Deputy Speaker: Thank you, in the spirit of moving together with the Committee on Tourism, Wildlife Conservation and ICT, I wish to grant the request by the chair, Hon. Abayo that we give Members ample time to go through the report so that when we are debating, we do so on what we have understood. So, Hon. Abayo, at 2.30pm on Tuesday, the report will be put in the Order paper of the day.

MOTION

Hon. Deputy Speaker: Hon. Members, I believe we have exhausted the Order paper of the day and I wish to request all of you to rise so that we adjourn until Tuesday, 2.30pm

The House rose at 4.52 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 2ND AUGUST, 2016

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

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

PRAYER

**COMMUNICATIONS FROM THE
CHAIR**

Hon. Speaker: Hon. Members, I have the following communications to make:

1. The House Business Committee having taken cognizance of the preparations that we have from 3.30pm every day, we re-scheduled a report by Tourism committee to tomorrow morning. I hope that will not inconvenience the Committee and we shall get to know that from the Chair person. It will not be possible to have two reports in the afternoon if we are to continue with the exercise that we normally have from 3.30pm.
2. I am hoping that the Education Committee and the Sports coordinating team will be giving us a report as soon as, maybe after this Sitting so that we start planning accordingly. Before I proceed, I shall allow Members who are at the door to come in.

(Members walked into the Chamber)

Chair of Tourism, I don't know if you are comfortable with that alteration! Hon. Members, kindly take your seats; I want to proceed with the Communications.

(Hon. Members took their seats)

3. The Siaya County Flag and other Symbols Bill was first introduced into this House on 11th September 2013 by the then Chairman of Delegated Legislation, Justice and Legal Affairs Committee, Honorable Sylvester Otieno Madialo. However, the process of enactment of the said Bill into law was marred by several legal and Constitutional challenges, for example, the Bill was never Gazzeted in the Kenyan Gazette in line with Article 199(1) of the Constitution of Kenya 2010, Section 23 of the County Government Act and Standing Orders number 144(1).

Secondly, the Bill was never presented for public participation in line with the provisions of Article 35(1), 118, 174(c) of the Constitution of Kenya 2010, Section 87 of the County Government Act, and Standing Orders number 129 (2). On 11th May 2016 the office of the Speaker received yet another copy of the Bill as

published on 5th May, 2016. I also note that several copies of this Bill have been published separately and the copies have glaring typographical errors, which if presented to the public as they are, will negatively impact on the image of this House. In line with the above mentioned issues, I direct that the committee on Justice and Legal Affairs consider the most recent copy of the said bill which was

2016 SIAYA COUNTY ASSEMBLY DEBATES

published by the Government Printers on 5th May, 2016 and take the same as a legislative proposal for pre-publication scrutiny. Thereafter, it will be taken back to the Executive for publication and later reintroduction to this House and enactment as by law required.

4. The Siaya County Ward Development Bill was sent to the Governor for assent on 29th April, 2016. The Bill was returned to the House vide a letter dated 10th May, 2016 together with a memorandum explaining the reasons for failure by the Governor to assent to the said Bill.

The Memorandum raises the following issues among others;

- a) That the Bill fails to define what the term ordinary revenue means as it is used in the Act thus creating an ambiguous section.
- b) The effect of the proposed 20% of the ordinary revenue to be allocated for Ward Development.
- c) The third issue raised in the memorandum is the role of the Members of the County Assembly in managing the fund.

The issues highlighted above being contentious, and considering that the Governor on two occasions has failed to assent to the said Bill, I therefore direct that the Bill be and is hereby referred back to the Committee on Budget and Appropriation for

reconsideration. In exercising this mandate, the Committee is called upon to consult the legal department of the Assembly, the County Executive Member for Finance, the Kenya Law Reform Commission to provide technical input on

the best way of coming up with the Bill.

Hon. Members, you realize technically speaking, we should assume that this is a law but being contentious as it is I find no harm in us addressing ourselves to it and also get the input of those institutions.

5. The County Assembly Service Bill.

The Siaya County Assembly Service Board Bill was passed by this House and forwarded to the Governor for his assent on 5th April, 2016. The Bill has been sent to the Governor twice and on both occasions returned back to the House with a memorandum accompanying the same, setting out the reasons for failure by the Governor to assent to the said Bill.

Section 24(6) of the County Government Act provides that” *if the Governor does not assent to the Bill or refer it back within the period referred to under this section, the Bill shall be taken to have been assented to on expiry of that period.*”

The Memorandum classifies this Bill as a money Bill and the Governor points out that this House did not follow the correct process of enacting a money Bill as provided for under Section 21(3) of the County Government Act which provides that in enacting a money Bill the views of the County Executive Member for Finance must be taken into account before any proceedings on it can be valid. Indeed this is the true legal position but the question that begs for an answer is whether such procedure was followed in enacting the Bill at hand. I answer in the affirmative, first and foremost clause 28 of the Bill refers to the car loan and mortgage

2016 SIAYA COUNTY ASSEMBLY DEBATES

fund thus gives effect to the contents of the Salaries and Remuneration Commission circular number SRC/TS/CGOVT/3/16 (copy of which is attached). The circular provides for car loan and mortgage as a benefit accrued by the members of the County Assembly, which loans the members have already received and are duly repaying the same. The Memorandum equally states the provisions of Section 116 of the Public Finance Management Act, Article 207 of the Constitution read together with Section 109 of the Public Finance and Management Act. All these provisions make reference to the procedure of establishing County Public funds.

It is quite clear that the Bill is not in contravention of the said provisions. The set out procedure was duly followed. To begin with, the said funds were allocated in the 2014/2015 and 2015/2016 Budget and Appropriations Act.

The County Executive Member for Finance was fully involved in the allocation of funds in the respective budget and appropriation process for the year 2014/2015, and 2015/2016 and for the successive years when the said fund was allocated. The final issue raised by the Governor in the memorandum is that the said money to be spent under clause 28 of the Bill ought to be appropriated in the appropriation act. I reiterate my views as mentioned earlier on in this communication that the same had already been appropriated and considered in the 2014/2015, and 2015/2016 Budget and Appropriations Act(s).

I therefore direct that this bill be presented for publication and gazetement. By a copy of this communication, the Governor is notified accordingly.

Hon. Members, you recall that we had a talent as an Assembly to pass as many Bills as possible. Some have been directed through the intervention of Members of this Assembly and others by Committees of this Assembly and the remainder through the intervention of the Assembly Administration.

Pursuant to Standing Order 119, I have received various legislative proposals for pre- publication scrutiny by the relevant Committees as listed herein below. I direct that each Committee to take note of the respective legislative proposals and work in conjunction with the Legal Department and the responsible County Executive Committee. Where it is a money Bill the views of the CECM finance must be put into consideration as per the provisions of the Law.

After this, I also direct that where money Bill is involved, the Budget and Appropriations Committee should consult in the relevant Sectoral Committee and the legislative proposals in question reviewed.

- The Siaya County Health Services Bill to be committed to the Committee on Health Services.
- The Siaya County Anti-pornography Bill to be committed to the Committee on Education, Youth Affairs, Gender and Social Services.
- The Siaya County Trade Development Loan Fund Bill to be committed to the Committee on Budget and Appropriations.

2016 SIAYA COUNTY ASSEMBLY DEBATES

- The Siaya County Fire and Rescue Services Bill to be committed to the Committee on Public Works, Roads, Transport and Communication.
- The Siaya County Solid Waste Management Bill to be committed to the Committee on Health Services.
- The Siaya County Equality and Women Empowerment Bill to be committed to the Committee on Education, Youth Affairs, Gender and Social Services.
- Siaya County Water Bill to be committed to the Committee on Water and Irrigation Services.
- The Siaya County Agricultural Fund Bill to be committed to the Committee on Budget and Appropriations.
- The Siaya County Public Entertainment and Amenities Bill to be committed to the Committee on Education, Youth Affairs, Gender and Social Services.
- Siaya County Village Polytechnic Bill to be committed to the Committee on Education, Youth Affairs, Gender and Social Services.
- The Siaya County Village Administrative Unit Bill to be committed to the Committee on Governance and Administration. You realize that the Committee on Governance had extensively worked on this document but we want to give them an opportunity to now engage the relevant CECs and Members of this Assembly before we do publication. The advantage of this involvement,

through publication scrutiny is that it saves us the unnecessary mistakes that come by when we publish a Bill and introduce it through first reading and it lands in the hands of the public with minor mistakes and omissions.

- The Siaya County Laws and Inspectorate Bill to be committed to the Committee on Governance and Administration.
- Siaya County Youth, Women and persons with Disabilities Enterprises Development Fund Bill to be committed to the Committee on Budget and Appropriations

I would just advise that you

consider them for pre-publication scrutiny, involve our Legal department, and involve the departments in the Executive and for Budget and Appropriations and the Sectoral Committees as well. We only have, I think this month and we shall be going on recess, it will serve this Assembly well if by the time we are going on recess, we shall have the pre-publication scrutiny done with so that during our recess, we just publish and gazette them.

6. There is Communication from the Executive.

Pursuant to Standing Order number 39(1) relating to messages from the Governor, I have the honor to convey to you a message from His Excellency the Governor of Siaya County on the proposed establishment of Barack Obama University. The County Executive Committee in its Meeting on the 9th June, 2016 approved the establishment of Barack Obama University to be situated at the ATC in Siaya. The approval was made pursuant to the requirements of the Siaya County Integrated Development Plan and

2016 SIAYA COUNTY ASSEMBLY DEBATES

the vision 2030 which recognises the provision of high quality education to the people as one of the means of creating investment opportunities to them hence improving their quality of life.

On that basis, the County Executive Committee conceptualised the idea of establishing a University whose main focus is on research around the field of agriculture. The Committee has submitted the aforementioned plan to the County Assembly as a matter of procedure for approval. Having gone through the proposed plan, I hereby direct that the Education Committee in consultation with the Legal department should discuss the plan and submit a detailed report to the House. Thank you. Next order!

MESSAGES

Hon. Speaker: Hon. Booker!

Hon. Minami: Sorry, it is not a message; it's on the Communication that you have just given to the Assembly. It concerns two of the Bills that have been brought back to the House and one of them is the Ward Fund Bill that you have just read the reasons, the memorandum. I just want to confirm to this House if the records are not there, that the reasons that have been advanced as to why it has been brought back are the same reasons that were used in the first or second time.

Being a Member of the Committee that looked on the issues, I remember very well that our Committee dwelt on those issues plus even the guidelines that were given by the Controller of Budget. I don't know if it is the mistake that came from the secretariat that they took over to the Executive a copy of the Bill that was not the one that we had

worked on. But I believe that our Committee and the Committee of Finance worked on those issues that were raised.

Secondly, the Bill concerning the Symbols and Emblem, they brought that thing to our Committee and I think it is their mistake that as a Committee after they looked at what they had done, we told them to go and give some descriptions and instead of bringing it back to the Assembly after meeting with the CEC Governance adviser, they went and published it. So, I think that sometimes we may find ourselves in situations that are not of the Assembly making but instead they are doings of Executive thinking that they are doing the right thing while they are wrong.'

Hon. Speaker: You will realize that in my communication, I said that the Flag and Emblem Spirits be reconsidered for pre-publication scrutiny meaning that I do not recognize it as published, if I recognized it as published, it would have come here by way of first reading. In other words it's a proposal that we shall look at it a fresh and take it back to them so that they can publish it a fresh before it comes here by way of first reading, that's the position.

So, those issues that concern the Committee, you have the opportunity to take it back and ask them that we asked you to put the following, why didn't you factor them in before publication? If we had accepted it, according to us, we would not recognize that it has been published and that's why I said pre-publication. The stages of developing a bill are;

You first come up with objectives, and then you give it to the relevant Committee to look at it for pre-publication. Once they are satisfied, you take it to the Government printers for publication, and

2016 SIAYA COUNTY ASSEMBLY DEBATES

then it is now brought for first reading. When it brought for first reading it is committed to the Committee that is the time that the Committee now takes it to the public for public participation and you bring a report. So as it is the thinking of the Speaker is in line with your thoughts and therefore you treat it so as pre-publication it's not in the Bill as far as am concerned. In terms of the Ward fund development Bill, when the reservations are brought to the Speaker, recommendations the duty of the Speaker is to look at them and commit them to the Committee of the whole House with the Treasurer Committee.

In this case, a matter as contentious as Ward Development Fund Bill, the best way to do it is to give it to the relevant Committee to look at it and if you had taken positions, the same positions you will take and have it passed in the Committee of the whole House. So you just have an opportunity to assert yourself on what you are passing that is so and that's the very time you will establish whether or not it was a problem of the secretariat, were they ignored or what kind of problem it was so that the Committee deals with them accordingly.

May I ask, there was a petition by the veterans. Chairman, what become of it?

Hon.: Thank you, we had a meeting on Monday and we are working on it so that we can present it next week Tuesday because we also want to have a legal opinion on the matter. So, we are going to present it either in the preliminary vote or the entire vote, thank you.

Hon. Speaker: Thank you, yeah you could also be asked the same question. There is a group calling itself the MAU MAU veterans. They brought a petition

here many months ago and you know we have deadlines within which we should address petitions, which has not happened and we may be embarrassed in October when go for celebrations and then they find out that we have not acted. That's why I reminded the Committee chair to discuss that business.

STATEMENTS

Hon. Oriaro: Mr Speaker, Sir, I am worried that over a month ago I put a statement request directed to the chair of Agriculture and Livestock and the chair's directive was that the report be brought back within three weeks and it is long overdue. It was a pending deal of Livestock office at Aram.

Hon. Speaker: Chair Agriculture, was it committed on Agriculture Committee?

Hon. Agoko: Yes, sir!

Hon. Speaker: Yes!

Hon. Ochieng': Thank you, I think we are working on it and we have got information that it will be brought to this House.

Hon. Speaker: when? Is the report ready?

Hon. Ochieng': Tuesday next week.

Hon. Speaker: You need to do it quickly so that we give it to both our legal team and the clerk because if you are to debate it on Tuesday, then you need to table it latest Thursday and that you are able to beat that.

Yes, Hon. Deputy Majority Leader!

NOTICE PAPER

Hon. Owii: Thank you very much, pursuant to standing Order 41(2a) we notify that the House Business Committee

2016 SIAYA COUNTY ASSEMBLY DEBATES

in their last meeting approved the following tentative business to appear in the Order paper for the next two weeks commencing Tuesday 2nd August up to Thursday 11th August, 2016.

Tuesday, 2nd August, 2016-There will be a report of the Committee on Public Accounts and Investments on their Benchmarking visit to counterpart Committee at the Senate and the Technical team at the National Assembly. Report will be presented to the chairman for the Committee on Public Accounts and Investments.

Wednesday 3rd August, 2016(morning sitting)-There will be a Report of the Committee on Tourism, Wildlife Conservation and ICT on effective utilization of ICT.

Wednesday 3rd August, 2016(Afternoon sitting) - There will a report of The Committee on Health Service, on the Siaya County Public Nuisance Bill 2015(Second reading).

Thursday, 4th August, 2016(Afternoon sitting) – There will a report of The Committee on Governance and Administration on Suitability test on staff of the defunct local authorities.

Tuesday, 9th August, 2016(Afternoon sitting) - There will be a report on the Committee of The Whole House on the Siaya County Public Nuisance Bill 2015.

Wednesday 10th August, 2016 (Morning Sitting) – There will be a report on Committee of the Whole House on the Siaya County carriage of Food Bill 2015.

Those are the tentative business report for 2 weeks from Tuesday 2nd August up to Thursday 11th August 2016, thank you.

Hon. Speaker: Yes, Hon. Apiyo!

Hon. Apiyo: Thank you; on the same note I came back with two statements and till to date it has not been brought to this House. I don't know what is going on because one is sitting at the accounts whereas the other one was seeking for 2 million from public accounts in which nothing has been done, therefore I was requesting for your advice on how to deal with this matter.

Hon. Speaker: I am being advised that the Budget is working on the report committed on slide; this work is so timeless it what people say 'was the longest'. Any member of the Budget Committee that is aware of those two reports in that statement?

Hon. Odinga: It is true that the Budget Committee had a discussion and the last two have been about those statements. I think this coming week we will be able to give that report. It was the purpose of the agenda of yesterday's meeting.

Hon. Speaker: Just to remind us that it is the duty of the Liaison Committee because that is a Committee on request. When you attend a Committee you need to look each other in the face and ask them, when are you bringing the report? So you realize that you are delaying the Assembly by keeping reports forever and I want to advise that Liaison Committee while meeting tomorrow need to find the status a report of all the pending reports that are in the hands of the Committees. They should then give a tentative report date within which they will finish and present the report.

A presentation should not be pegged on the date you submit because it has to be looked at by somebody else and as a reminder, you can also share with the chairman Liaison if need be and in deed

2016 SIAYA COUNTY ASSEMBLY DEBATES

that you look at Committee Budget allocations so that Committees can start operations. As we are, I had a situation in the morning where the Health Committee wanted to go out for 30 days and the budget was about Ksh.600, 000 and above, so ask yourself how about if they allocated Ksh.500, 000 what if it was more? So, it is important that you know what Committee allocations are so that Committees can plan accordingly.

Finally, I have also been informed that the Education Committee, the team organizing the sports event that they went to Executive and they were told that there is a cabinet meeting tomorrow that will look into our proposal and by Thursday we shall get a way forward and I am prayerful that we get a positive result because time is not on our side.

MOTION

REPORT OF THE COMMITTEE ON PIC/PAC ON THEIR BENCHMARKING VISIT TO THE SENATE AND THE TECHNICAL TEAM AT THE NATIONAL ASSEMBLY

Hon. Ngure: Thank you, Mr. Speaker, Sir. On behalf of the Committee Chairperson who is struggling with some cold, I wish to move the following Motion:-

THAT, this House adopts the Report of the Committee on Public Accounts and Investment on their benchmarking visit to the counterpart Committee at The Senate and the technical team at The National Assembly, laid on the Table of the House on Tuesday, 19th July, 2016.

Mr. Speaker, Sir, on behalf of the Public Investments and Accounts Committee, it is my pleasant privilege and

honor to present to this Honorable House this report on a benchmarking activity carried out by the Committee with the counterpart Committee at The Senate on 22nd June, 2016 and with the technical team of the counterpart Committee of The National Assembly 23rd June, 2016.

COMMITTEE MANDATE

The Committee on Public Investments and Accounts Committee was established under Standing Order No. 196 and has the mandate to do the following;

1. The examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.
2. The examination of the workings of the county public investments;

COMMITTEE MEMBERSHIP

The Committee on Public Investments and Accounts, as was constituted by this Assembly comprises of the following members;

28. Hon. William Angul.
29. Hon. Fred Ouda.
30. Hon. Booker Minami.
31. Hon. Maurey Asewe.
32. Hon. Pamela Ngure.
33. Hon. Jack Odinga.
34. Hon. Leonard Oriaro.
35. Hon. Elisha Okuku.
36. Hon. Beatrice Obondo.
37. Hon. Nicholas Ochieng Aneme.
38. Hon. Pius Ombiyo.

2016 SIAYA COUNTY ASSEMBLY DEBATES

ACKNOWLEDGEMENT.

Mr. Speaker, Sir, the Committee registers its unreserved thanks to the Office of the Speaker and the Clerk of the County Assembly of Siaya for their facilitation on the entire process. We also would want to acknowledge and appreciate the following Members from the respective Houses for their input in the entire process.

THE SENATE

- 1) Senator (Prof) Anyang' Nyong'o (Chairperson)
- 2) Senator (Prof) John Lonyangapuo
- 3) Senator Kennedy Mong'are
- 4) Senator Henry Ndiema
- 5) Senator Boni Khalwale
- 6) Senator Hassan Omar Hassan
- 7) Senator Martha Wangari
- 8) Senator Kimani Wamatangi
- 9) Senator George Khaniri
- 10) Clerk Mrs. Marya Adjibodou

The National Assembly

- 1) Mr. Raphael Ikame-Office of the Auditor General
- 2) Mr. Geoffrey Mwitari-The National Treasury
- 3) Mr. Daniel Mutunga_Principal Clerk National Assembly
- 4) Mr. Victor Weke –Clerk Assistant
- 5) Miss Tungo Aaron-Clerk Assistant
- 6) Mr. Peter Mwaura-Legal Counsel
- 7) Ms. Catherine Gati-Fiscal Analyst
- 8) Mr. John Mungai –Audio Recorder

Although this is not in the report; we also want to appreciate the Chairperson of the National Assembly PIC Committee, Hon. Keynan. Though in this House we have PIC/PAC as a Committee, at the National Assembly, these are two different

Committees and we were able to meet the PIC Committee.

The commitment and devotion to duty of all these individuals involved in this noble task made the work of the Committee and production of this report a success. We thank each one of them.

In conclusion, Mr. Speaker, Sir, and on behalf of the Public Accounts Committee, I now wish to Table the report and urge this Assembly to adopt it and the recommendations herein.

INTRODUCTION

In the course of discharging its mandate, the Public Investment and Accounts Committee of the County Assembly of Siaya noted a few challenges that actually were a hindrance to it achieving its mandate. The following issues were considered by the committee as a motivation to seek standard and alternative approaches to making the work of the committee more effective.

1.1 Proactive nature in Audit Activities

Scrutiny of budgetary implementation transactions by the Public Investment and Accounts Committee in Siaya County in all cases has been reactive in that the audits are rather historical than continuous. This means that in all cases finances have already been spent, so if ever something went wrong, it's always too late to do anything about it. This brought the Committee to the consideration that can there be a way in which the Committee can be proactive rather than reactive in matters to do with preventing the loss of public finances instead of reacting when millions are already missing?

1.2 Professional bodies issued with the responsibility of audit

The only body issued with the responsibility of conducting audits within the county is Kenya National Audit Office and these audits are usually conducted annually. The Committee needed to explore if there existed other professional bodies that could be called upon to conduct audits given that KENAO is apparently reeling with work overload. It was also toying with the idea of having more frequent audits, may be quarterly instead of longer annual periods.

1.3 Implementation of recommendations of audits reports.

On recommendations on interrogated audit reports, the Committee had come to situations in which some individuals had fleeced the County Government of funds and recommendations had been issued on retrieval of these funds from the said individuals, however, complications come in especially on the aspect of implementation of some of the recommendations either, through the committee charged with the responsibility of implementing these recommendations, or the nature of the recommendations issued in question. Additional challenges arose when some of the individuals culpable of fleecing government funds were no longer in service within the County Government, or were currently in the private sector or were retired. The Committee thus needed clarification on how to go about issuing recommendations that were realistic and could suit each situation.

1.4 Assets recovery from individuals found guilty of fleecing public funds

Related to the concern mentioned above, the Committee had in the past

come across situations in which it had to make a recommendation on recovery of public assets and /or funds from the individuals found to have stolen public funds. This, however, was difficult to implement due to lack of an institution that could be called upon to deal with recovery of some of these assets within the County. It was then a consideration of the Committee to seek ways of effecting recommendations related to such recoveries

These and other issues that could have arisen thereafter formed the presupposition of the Committee's intent to benchmark with national institutions which have been performing such tasks for longer periods and on national standards.

2.0 Objectives of the Benchmarking Visit

Subsequent to the issues raised in the preceding section, the Committee specifically sought to address the following objectives;

1. Seek preventive approaches in addition to relying on normal audit processes in safe guarding public funds from theft and misappropriation.
2. Explore existence of institutions or organizations that could provide instant and more frequent audit services to the county besides the KENAO.
3. Legal ways of effecting and expediting assets and funds recovery from individuals found to have been involved in embezzlement in the County.
4. Ways of implementing other audit report recommendations.

FINDINGS AND OBSERVATIONS

3.1 Nature of audit reports reviewed by the committee

Mr. Speaker, Sir, guided by the Standing Order No. 196 of the County Assembly of Siaya, the Committee's mandate is actually limited to review of audit reports on a historical audit aspect. This is the case both at the National Assembly and The Senate and the issue has arisen previously. A solution would only come in if there is an amendment to The Standing Orders at the highest level of legislature and it trickles down to the County level. A proposal to this effect has already been made at the National Assembly. In as much as this is a reactionary measure, the Committee was advised of other means of being part of current audit reports. The alternative approaches explored were;

3.1.1 Creation of a County Audit Committee

Mr. Speaker, Sir, at the National Assembly level there is the Ministerial Audit Committee that acts independently in review of audit trails. It is within the statutory requirements in accordance with Section 155 the Public Finance Management Act, 2015 (Revised) that a strong internal audit system is in place at the County level. It's through this approach that aspects key to Public Finance Management can be checked in real time.(Continuous Audits).

A County Audit Committee should be put in place with the primary purpose of providing oversight of the financial reporting process, the audit process, systems of internal controls and compliance with laws and regulations across all sectors within the County.

The County Audit Committee should establish procedures for accepting confidential anonymous concerns relative

to financial reporting and internal control matters within the County often referred to as "the whistleblower approach".

The office should be independent and have the mandate and resources to audit all activities that the County's finances are attached. Internal control systems can be placed as early as the recruitment process for members of this committee to ensure professionalism, adherence to Chapter Six of our constitution and that no liaising can occur to cover audit queries.

This Audit Committee should provide periodic reports to the PIC/PAC for legislative scrutiny and implementation of recommendations made.

3.1.2 Scrutiny of budgets in order to make audits during implementation real time

Mr. Speaker, Sir, during the deliberations, the Public Investment and Accounts Committee was advised to make a scrutiny of the budget before its implementation so that the implementation process begins when the Committee is aware of the phases and the respective budgetary allocations to be incurred so that the audits are more continuous rather than historical.

The Committee was further advised to pay critical attention to the Supplementary Budgets by the Executive that are passed without including the aspect of public participation.

The Committee was further advised to scrutinize mega projects by the County Government in all aspects from budgetary aspects, award of tenders, procurements process and even the employment process.

Mr. Speaker, Sir, one other aspect that the Committee was encouraged to do is to ensure that there are proper internal

control systems and standard operating procedures for different aspects within the Executive department of the County Government and especially the Procurement, Finance, Auditing and Accounting departments.

3.1.1 Requests for special audits from the Kenya National Audit Office

Mr. Speaker, Sir, one aspect we also noticed was that we don't need to wait until the end of a financial year to call for an audit in a particular sector of the County Government. The committee has the authority to call for a special audit as a result of an assessment based on a report by an auditor that recommends quick analysis of a practice within any sector of the County Government. The Committee however noted the financial constraints that come with some of these audits. However, a recommendation was flouted that if the cost of calling for a special audit is way much more economical than losing a significant amount of money invested in that project or venture by the County Government, then it is worth it.

3.1.2 Office of the Internal Auditor at the Executive

Mr. Speaker, Sir, the audit office at the Executive is an independent office. It is trusted with the mandate of risk management and audit of the daily activities within the Executive branch of the County Government. It is in this office that misappropriations and financial malpractices can be detected and corrected in a timely manner.

However, Mr. Speaker Sir, these officers are intimidated from time to time given that they are employees of the Executive and so discharge of their mandate is limited to what the Executive deems fit which creates a loophole where financial malpractices cannot be

authoritatively reported. The creation of a strong Internal Audit Committee in the County is one reliable way of ensuring independence.

The Public Investment and Accounts Committee was also advised to work hand in hand with the internal audit office not only when summons and sanctions are issued to these officers, but throughout to enable quick response to audit issues that can be curbed from time to time. It's therefore important that the internal auditor gives a quarterly report to the Public Investment and Accounts Committee on issues handled so that areas that need urgent attention can be handled in a timely manner.

3.1.3 Coordination with other Sectoral Committees

Mr. Speaker, Sir, in discharging their mandate, other Sectoral Committees actually come across projects that have stalled or stopped due to misuse of public finances. It's therefore recommended that such aspects are interrogated in time by these Sectoral Committees. They should work closely with The Public Investment and Accounts Committee so that the emergent issues can be dealt with in a timely manner. These can be brought to the County Assembly in the form of Petitions and if found to bear weight, be assigned to The Public Investment and Accounts Committee for interrogation.

Honorable Members should be also advised to bring up Private Bills on aspects that they feel are of interest in terms of financial malpractices to be tabled and directed to the Committee in question for real time resolutions and correct usage of public resources. This calls for programmed civic education, so that oversight is not just centered in this Honorable House.

3.2 Professional bodies issued with the responsibility of audit

Mr. Speaker, Sir, the Kenya National Audit Office is the only professional body given the responsibility of conducting audits within the County Governments and getting other professional bodies would be overstepping our mandate. This is the same, both at the National Assembly and the Senate. A representative from KENAO clarified that the problem their organization faces is the backlog of audit activities it handles. It therefore becomes impossible to handle issues in a timely manner. Their reports are released annually and only on special occasions do they accept special audits and based on financial capacity or workload, would they carry out such special audits. In this capacity Mr. Speaker, Sir, our hands are tied.

However, alternatives for audit queries to interrogate could be available through the formation of a County Audit Committee as discussed above.

3.3 Implementation of Recommendations of Audits Reports

Mr. Speaker, Sir, during our deliberations, the Committee found out that most of the recommendations issued have never been executed. This was the same case at the National Assembly. This was actually attributed to by the implementation authority mandated to discharge this function. The ideal situation would be that the report is handed over to the Implementation Committee after which the recommendations would be tackled and communication issued to the relevant parties in question through the Office of the Clerk and follow up done by the

department issued with that responsibility be it by the police, criminal investigation department or even the executive itself.

However, a key concern came up from the Implementation Committee: Some of the recommendations issued by the Public Investment and Accounts Committee are impossible to implement as they are because they bear no clear direction in the form of intention or in the form of which legal approach should be pursued, either civil or criminal.

The Committee was advised to make use of the Legal department to advice on a specific course of action that can be pursued and the specific form-based on evidence availed for interrogation during the audits. Further still, the Committee was advised to involve the office of the State Attorney where prosecution is preferred. To this end, we can firmly confirm that the Implementation Committee will no longer point fingers back at us as we will involve the legal team in our dealings to the latter.

Justice cannot be served impartially and so regardless of individuals who had fleeced the County Government being in service within the County Assembly, in service within the private sector or retired, the legal team and/or the State Attorney should advise on ways and means of retrieval of such public funds .

3.4 Assets recovery from individuals found guilty of fleecing public funds

The Public Investment and Accounts Committee was advised that on recommendations, the relevant body addressing such aspects must go through the Ethics and Anti-corruption Commission after which the individual charged with such unlawful acts can be forwarded to the Asset Recovery

Authority which is an organization formed and empowered with the said responsibility. It wasn't however clear if this organization has been operationalized at the County level but then, once communication goes to the Ethics and Anti-Corruption Commission, this is the organization solely charged with this responsibility.

Mr. Speaker, Sir, before I read the recommendations, allow me to mention that when we go out for benchmarkings, more often we want to confirm whether what we are doing is correct. Benchmarkings are meant to learn best practices. Allow to mention that while meeting the PIC Committee, we were castigated for being improperly dressed. This is something that we have talked about in this House and there are times when Members have been thrown out for not dressing decently. Every member of that Committee literally talked about our dressing and some even said that we should be thrown out for not being well dressed. It took the intervention of the Committee Chairperson for us not to be thrown out. So, Members, this is a reminder that next time you go visiting, dress as a guest.

Infact during that time, it was noted by the Chairperson that actually it is Hon. Beatrice Obondo that was well dressed.

Hon. Speaker: Point noted! Proceed!

Hon. Nguire:
Recommendations/Way forward

Mr. Speaker, Sir, this Committee herein specifically recommends the following;

1. Based on the provisions of Section 155(5) of the Public Finance Management Act, 2015 (Revised), this House should ascertain establishment of a strong internal

audit framework in the County. In essence, a County Public Audit Committee should be in place with clear terms of reference and reporting structures that ensure professionalism and independence. The Committee shall lead in ensuring actualization of this recommendation within the first quarter of the 2016/2017 financial year.

2. The technical staff in the Assembly Budget Office should come on board and work closely with the Public Investment and Accounts Committee in digesting Supplementary Budgets, and in a report that shall be presented to this House, explain implications of options taken in clear and simple terms.
3. Sectoral Committees' recommendations should be clear and implementable to give the Implementation Committee easy task in executing their mandate. This Committee therefore suggests that all recommendations in such reports be validated by the Assembly Legal Department which shall in turn advice the Office of the Clerk on options that are economical and statutory. The legal department should then outline steps to be taken, financial implication of such steps and applicable timelines. With such clarity, the Implementation Committee shall be accountable for actions not taken on recommendations. This should be implemented immediately.
4. The Legal Department of this Assembly should consult with the

2016 SIAYA COUNTY ASSEMBLY DEBATES

EACC and document provisions that are in place in recovering assets and funds from culpable individuals. Where such recovery is not practical given the limited resources, available prosecution options should be pursued in earnest. Such documentation should be ready also within the first quarter of this financial year (2016/2017) and should be presented to this Committee for records and further reference.

Thank you, Mr. Speaker, Sir. I now ask Hon. Obondo to second.

Hon. Obondo: Mr. Speaker, Sir, I rise to second.

(Question proposed)

Hon. Oriaro: Thank you, Mr. Speaker, Sir. As a member of this Committee and coincidentally as the Chairperson of the Implementation Committee, I fully support the letter and spirit of this report.

As a Committee, our aspirations are well captured in recommendation number three which reminds Committees on the need to ensure that their recommendations are well thought out and are implementable. Recommendations with clear legal buttresses makes it easy for us a Committee to do follow ups.

Mr. Speaker, Sir, the need for a County Audit Committee cannot be underscored and it is a matter that should have been effected during the embryonic stages of the County Government. This should be quickly implemented because this is an area where malgovernance stems its roots.

Mr. Speaker, Sir, I'm usually very hawk eyed, but I don't how recommendation four passed me during

the compilation of this report. Maybe it was a typo error but you will agree with me that Assembly's Legal Department cannot take the route indicated in the report. The Executive can do that, but not the Assembly. I treat it as a typographical error and it may not be easy to amend it now for the future of this Report. It starts appropriately.

On the whole, I know that in bench marking, we learn best practices. The Senate Committee of Implementation visited us and it was obvious that majority of Members were not properly dressed, they were casually dressed. What is important is the nature and weight of our way of transacting business because we shall not have an excuse when we perform below average. This is not because we were not dressed properly but because of the content of our transactions, so the issue of Nairobi to me was misplaced because precedence was set in my Committee so, this one or be it would have been a nuisance but it should not be underscored.

Hon. Speaker: Hon. Members, the issue of precedence was not mentioned. We don't want to debate on whether or not proper dressing is a matter that should be considered in our Meetings. It is obvious the Legislature should know if it was a law. I do not want us to linger on that discussion. Yes Hon. Aneme.

Hon. Aneme: Thank you, Mr. Speaker, Sir; I am up on my feet to support this document. I am a Member of the team but it is unfortunate that I joined my colleagues after about 2 days in Nairobi because we were going round with the budget. What pleased me the most when I joined my team were some of the emphasis that we learnt in Nairobi that we have not been putting in practice in our system.

One of these areas that I wanted to contribute to is the issue of proactiveness. Both the Senate and the Assembly really emphasized to us that we have been dealing with the history of the money that has been spent or stolen. Now the history we have been addressing is not helping anything. They were comparing this House scenario with their House scenario but later, I am going to point out how they are handling it. So, we were told to be proactive and to do that, we have to put the audit team and the implementers of the projects on almost weekly or monthly checking before they spend or at the point of spending the money we should be demanding to have them together with us without even consultation so that both of us will be on the right track.

This is an omission on our side because we normally see the Budget being done and taken to the Executive for implementation and we are waiting until such a time when even the history of so and so has with the money so I think that emphasis need to spelt out in our team so that when we are starting to handle the project after adopting benchmarking with all these new ingredients should put into practice.

The other area that I want to put more emphasis on as they also did to us is the implementation of recommendations. Many a times we do pass the recommendations here and the Reports and once they are on the other side of the government, the implementation is not taking place. I can remember that earlier we recommended that some people should be given 14 days to return the money or to give us the documents to prove that it was spent accordingly. Such information has not been coming back to us that such implementation has indeed been taking

place. But probably again after 2 or 3 weeks we seem to have forgotten the whole thing and we are just boys and girls of the same House meeting together. The person we wanted to come the other day to bring the proof that the money was probably not misused are just with us. So, a lot of emphasis needs to be put here.

We were told that once the Report from any August House or any Committee has been passed here, it now becomes a resolution of the whole House not only PIC and PAC or any other Committee. We team up ourselves together for the mandate of implementation because it will come back here. So that emphasis I think should be put in place.

The other area also is creating of a County Audit Committee. The Assembly told us that what can help the situation and what they are probably putting into use there should be another Committee dealing with the audit employed explicitly separate with the system because the auditors here are employed with the Executive. Whatever the boss does not want to be seen they cannot give even if they come to us they go round and circumvent because they don't want to expose their bosses who are sometimes misusing this money and they know. So if there is another County Audit team employed separately to work independently they will also be assigned to be supervising what they are doing and they will be demanding and retreating the expenditure document scrutinized before we come in.

This is an area that they were urging us that if you go back better think of a scenario on how you can have an Audit Committee employed by the Government to counter check. It will be working more or less like the Auditor

General team but within the County Government.

The other area that they really emphasized is Periodic Implementation Recommendation Report, we should not be leaving it at that after the Report has been passed here and taken to the other side. We should be demanding to see the implementation of this Report. Before people forget, we also have an Implementation Committee on our side, sometimes we pass a document and we give Implementation Committee and the Committee now will be the watchdog so through that things probably might be answered than after passing them we just throw them saying the Implementation Committee is also with us here and then all of us keep quiet, after 1 month the whole thing is gone.

Thirdly, the scrutiny of the major projects. We were told that when the implementation was taking place both the Accounting, Procurement department, the Executive and the Assembly should be privy to what they are doing. This is true even here in our Assembly, I can't remember my Committee meeting with the procurement people from this Assembly. We undertake projects but I have never seen a situation where they call the implementers of the projects to brief us of how they have done it and how they have made bids in the procurement, like for example who won, who didn't win and why. That was also a fact and since we are passing the document it is better we incorporate this idea so that we borrow from these people.

Fourthly, they emphasized that the Committee has the authority to call a special audit. Keeping quiet until they now leave their job is also taking us a long way that cannot help us to correct a mistake

before it is done. Somebody who started to do a mistake in January will do a mistake until June without the Audit General from KENAO side so that he can arrest the situation from that point. so that is another area that these people really emphasized that we need to put into practice and see if it can help our scenario.

We were also advised that the PIC and PAC should work closely with the internal audit although they warned us that even if we are putting them close we cannot achieve 100% but working with them closely might make them have an element of fear that they know these people will come and want to see the Report. If you just read them like that and because they have a boss who probably agrees with the misconducts and the mistakes that you wanted to find out, you might not achieve very much.

Lastly, use of Legal departments. We thought that we should have a County Attorney, such like mistakes like wanting an officer to appear before us. We want an officer to give us back the money within 14 days or refund the money to County. Such like criminal acts should be dealt it within the County Court through the County Attorney. I think Kiambu and Nairobi Counties have it. So such small issues that can be handled within the County should have this kind of approach so that it can also help us with those people who are not giving us the rent, land rates and the other small offenders in the market. This can also help to get the revenue for the County and for the people to help us develop the County.

Those are some of the things that I factored that if you put in place will help us to at least arrest some situations. Thank you Mr. Speaker, Sir, I support this Report.

Hon. Speaker: Hon. Aneme, let the Chair defend the position of the Assembly but I think it should be factual. It is not true that the leadership of the Assembly has never updated us on projects that are ongoing because I can remember vividly even recruitments we would formally meet and share and even when we do medical insurance, we normally meet and share. In fact most of the things we do we normally meet and share. That is just a by the way but for records that go to the Hansard, it needs to be factual. Thank you.

Hon. Apiyo: Thank you Mr. Speaker, Sir, first I want to congratulate the Committee because it is a wonderful Report. Secondly, we had mentioned an issue here called proactive. This is relevant in preventing loss of millions when you actually go out to audit what has been stolen it is zero work we are doing nothing. My advice would be that we have as Members of this Assembly we must stand up and show the voters we are worth the votes they gave us. These people who are stealing the public funds will never go Scott free, these people must be arrested and the assets must be recovered.

I think KENAO is a useless body. I don't know if they are overwhelmed with work these are the people when they are told there is a problem here they come in to fleece money. It is also a body which is also so corrupt. They will never give us what we want. My advice as a member of this Assembly they have an area here where it was captured very well on this Report that we should form a body in this County that will deal with exactly what KENAO people are doing.

We should not wait for the error every financial year then we call the KENAO team to do the audit. We should

protect the funds of the innocent and fleecing of the County money. Some of these officers are retired or were expelled from duties but these people must come back and explain where they took the money to. We cannot just be told Kshs. 200 Million is gone within one week, Kshs. 50 Million was withdrawn from the imprest account and the Assembly is just quiet we are not even talking about this money. What are we doing as the Assembly or elected and Hon. Members representing Siaya County.

The stolen public funds have to be recovered whether through the assets of this individual but it has to be recovered. When we are going to go deep we are going to look at who took the money of innocent Siaya people and attach their assets. We shall investigate these assets and we will know where the assets are.

These are the reasons I stand with this Committee that this is a wonderful report. The other one was, I think I mentioned that there are some institutions which the KENAO people are doing. The thieves, the fraudsters or we can call them the corrupt individuals we just can't afford. Hon. Members, we have to look at why we were voted here. We should be responsible for every single cent even Kshs. 200 shillings anybody using public money must account for this money.

There is also the issue of the creation of the County Audit Committee. We should have an Audit Committee that will not be subjected to reactions. We need a proactive group that will protect this money the way Hon. Aneme was putting it. This should not be done quarterly but every month we must look at what the audit people are doing. Otherwise, I hope when we do our oversight properly, I think these are the teams the way they have

2016 SIAYA COUNTY ASSEMBLY DEBATES

captured it here. These are the teams doing it every month or quarterly every 3 months.

The Hon. Member also mentioned scrutiny of major projects by County Government. These are the budgetary aspects, award of the tenders, employment processes. There are people who are being employed, I don't even know who is paying these people and from which side. There are also people I am told are Communication officers. What are they doing? Who is a Communication officer in Siaya? What are they doing and at which level? We are misusing the people's money! These are the things that we don't want to see; in fact I have never seen any Hon. Member here trying to question even about the communication officers. Who are these communication officers and whose money are they using? Isn't this what we are talking about here?

These are things that if we don't look at then even people will turn against us. There are situations where even the imp rest account. The staffs in the Executive are being paid millions of shillings from the imp rest account. There is also a useless body called Anti-corruption. They are corrupt like their names, they can't even do anything. There is a Report that we need from them I am on record and I want to put it clear that we are not going to see things going mess and we are just seated. There is a Report that must be given and brought to this Assembly on the way money from the imp rest account is being misused whereby people are paid millions of shillings. We want to see that Report. If nobody brings that Report, I shall go to court!

These are the reasons we need to be accurate with any single cent being spent in this County. There is a body

called the Authority Report Special Audit. What is a special audit? These are the recommendations that the quick Report that the special audit we would be seeing like what I have mentioned here like quarterly this will be special audit that even Hon. Members would be having knowledge that this is what the procurement did and this is what is going to be used in the next 6 months. In the next 3 months we are supposed to pay Kshs. 300 Million. I support this Report.

(Applause)

Hon. Speaker: Hon. Willis.

Hon. Ochieng: Thank you, Mr. Speaker, Sir, for giving me this chance. I shall start by congratulating the PIC and PAC Committee for being organized and having good objectives to go and benchmark in our two National Assemblies. On a light note I wonder why the Committee decided to acknowledge the Senate team and failed to acknowledge the National Assembly team. That remains to them because they know the reason why they decided to do that.

I want to concur with the Committee for having brought this Report and their recommendations with their objectives of going to benchmark. I think they were just extending our role of oversight as Members of the Siaya County Assembly. The recommendations that we are given here are roughly placed. What I would just add to this recommendation is that all these structures they found in the National Assembly and the Senate we also have them here within our County. I would just urge them to make sure that...

Hon. Asewe: Point of information.

Hon. Speaker: Yes, Hon. Asewe.

Hon. Asewe: I would like to inform the Member on the Floor that both The Senate and The National Assembly are on page 4 and it is very clear that they were both included.

Hon. Ochieng: Thank you, Mr. Speaker, Sir, my concern was in The Senate you named the Hon. Senators while in The National Assembly they didn't mention any Hon. MP that is what I meant by not mentioning The National Assembly, it was on alight note.

Hon. Speaker: I think he is concerned that under National Assembly you just included the staff and not the Hon. Members. Yes Chairman.

Hon. Angul: We only managed to meet the technical team of the Committee. We didn't meet the National Assembly Members.

Hon. Speaker: Yes, Hon. Willis.

Hon. Ochieng: Thank you, Mr. Speaker, Sir, my concern was that as I said earlier the structures they formed in the National Assembly or in the Senate; all those structures I hope and believe we have them in the County Government of Siaya. I just urge the PIC and PAC Committee to work very closely with our auditors to be getting this information on daily basis. I think our auditors here in the County also have got information on how the projects or the expenditures of how the County Government money is spent within this County. I think they should just create a good rapport with our auditors instead of waiting for KENAO Report which always comes annually so that we are on toes.

All these things need some professionalism. I think that as much as we have got a committee the staff I just urge the administration of this Assembly to continue doing more and more sensitization or empowerment in terms of

training so that we get to understand and know very well what it entails or what we are supposed to do as a Committee and give good Reports and make sure that everything moves as required. Otherwise I want to thank them and I support the Report.

(Applause)

Hon. Speaker: Yes, Hon. Zilpah.

Hon. Omondi: Thank you, Mr. Speaker, Sir, I want to thank the Committee for the Report and recommendations, however, after reading the Report and the listening to the contributions, I still feel that the Committee has a very important role on issues of oversight. I say so because it is coming out that we cannot rely on internal auditors and they have stated clearly that these people have to protect their jobs because if they don't their allegiance to the appointing authority and in that case they cannot be relied upon to give us accurate Reports. So the PIC and PAC Committee must do their work.

I happen to be in a Committee that was looking at some project. I think that it is a Statement that is going to come to this House to be answered and it is very shocking.

As much as they say we should be proactive I say we should be both because if we are going to be proactive we are only going to deal with what is happening in 2016/2017 yet 2013/2014 there are reactive ones that were really messed. You come across a credit, it has been fully paid and yet it has not even been done a proper way. If you don't go back then this County will have lost a lot of money to people who are just out to misuse the resources of this County. You therefore have to go

2016 SIAYA COUNTY ASSEMBLY DEBATES

backwards and then forward because you are the major oversight group as far as the expenditures are concerned. The other Committees can just come in to assist you but you must lead the way. If you don't lead the way then things will not go on as you expect so I urge you to follow what you have been taught and proceed and let's see results.

On this issue of Special Audit Committee, I am not very clear how it will be formed and who is going to pay it whether the County or the National Government. If it is the Government then this is something that should be done in the County because we have 47 Counties. It will not only be limited to Siaya. I think it will help a great deal if this Special County Committee is in place because they will not owe their allegiance to anybody in this County but will do their work independently. If that is done and put in place then I believe that things will go better. This Committee should press for the formation of that Committee so that it can help in oversight work. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Yes, Hon. Nguire.

Hon. Nguire: Thank you Mr. Speaker, Sir, this is a good Report because we really wanted to know if what we are doing matches what other people are doing, and if at first we were not so sure then we come back more sure particularly on matters as Members have said here of being proactive rather than reactive because we have cried many times that we need to find out what can be done about loss of money before it is actually gone. And we have a very good Report that we back with.

We should be discussing these projects as they come up and follow through before they are concluded or not

concluded and then cry about the fact that they have been abandoned or not done well. This is something that as Members have said here we are now going to follow up very closely and make sure that for every project in this County that is undertaken, that we know the inception of this problem and their conclusion so that if something is wrong in between that we have the chance to point out and therefore pass the information to the relevant authority that certain projects are not being done as it should be.

The issue of bodies that should help us in doing audit in the County and of course, the country at large. I would just like to plead with the Members that a body like KENAO, we know and we find out further from our visit that they are the only body who has the authority to carry out this audit. We also found out that they are overwhelmed and therefore more often we find that work that should have been done much earlier is now coming out as an aftermath.

We should not, in my opinion say things about them which we cannot substantiate. Hon. Apiyo talked about KENAO as being very corrupt. I don't know if we have information on the fact that KENAO is very corrupt. We work with them and they are the ones helping us with our audit so we better be factual when we say things about them. They could be corrupt but if we don't have facts, we better not bring it out very strongly the way it has come out today it might make our working unpleasant.

Hon. Willis Ochieng was concerned that we did not come up with appreciation for The National Assembly to reach down there and the names of the Members of the people we met with. It is true that we did not meet members of PAC

as The National Assembly but yes we did meet PIC and there were many of them. I think this typo error and my Chairman has asked me as I talk about this to apologize because it has not come out clearly. It is a typo error we met members of PIC and there they pointed out several things including code of dressing.

Hon. Speaker: It is not typo it is an omission.

Hon. Nguere: It is an omission that we did not list their names but they were there Mr. Speaker you remember when we said the issue there I mentioned the Chairman of PIC should help us out with the members.

Hon. Speaker: When a Speaker rules on something and you revisit it, it is disorderly. Proceed without mentioning what I had warned against.

Hon. Nguere: Much obliged Mr. Speaker. About the special audit I think what we have there is that every County should have their Special Audit Firm of people appointed to deal with special audit. And we say it here in our Report that this could be costly employing these people but when you look at the fact that they could help us to unearth some of this big money disappearing, if they can help us to do this in time before the money is lost then perhaps it could be worth the while having these people.

Some of these things we knew about we just wanted confirmation some of these things have come out very clearly that we need to do them correctly and we appreciate the meetings we had with the Members at The National Assembly and The Senate and now we want them back on implementing through the

Implementation Committee and even as PIC and PAC Committee the issues as discussed during benchmarking otherwise thank you very much Members for supporting this Report and we work together to make Siaya a success because we have learnt more. Thank you Mr. Speaker, Sir.

Hon. Speaker: Before I put the Question, I just want to make clarification on the Audit Committees. They are part of the regulations that were put in place by The Treasury and the regulations are such that every entity of the County Government and The National Government must have Audit Committees. Those people are appointed, they are competitively sourced and they work on part time basis. The regulations indicate that by the 1st of July this should have been in place. I am aware that the County Assembly had advertised and not very clear on when but the interview should be put in place so that we have those people in place in the County Assembly as an entity. For Executive you can pursue.

(Question put and agreed to)

Hon. Members, will you be upstanding for adjournment. There being no any other business, this House adjourns until tomorrow Wednesday, 3rd August, 2016 at 9.30a.m. in the Chambers.

The House rose at 4.36 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Wednesday, 3rd August, 2016

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

[The Temporary Deputy Speaker (Hon. Adida) in the Chair]

PRAYER

**QUORUM CALL AT THE
COMMENCEMENT OF SITTING**

The Temporary Speaker (Hon. Adida): Hon. Members, Standing Order No.31 (1) says that a quorum of the House or of a Committee of the whole House shall not be less than a third of its Members; from the look of things, we don't have quorum and I order that the bell be rung for five minutes.

(The Quorum Bell was rung)

(Loud consultations)

*(Several Hon. Members walked
into the House)*

(Quorum confirmed)

**COMMUNICATION FROM THE
CHAIR**

The Temporary Speaker (Hon. Adida): Hon. Members, in our public gallery this afternoon are pupils from Lwak Girls Primary School.

*(The pupils stood up in their places and
bowed)*

May we welcome them in our usual manner.

(Applause)

NOTICE OF MOTION

**REPORT OF THE COMMITTEE ON TOURISM,
WILDLIFE, CONSERVATION AND ICT ON
COUNTY REVENUE AUTOMATION**

Hon. Abayo: Thank you, Madam Temporary Speaker. I rise to give notice of the following Motion:-

THAT, this House adopts the Report of the Committee on Tourism, Wildlife, Conservation and ICT on County Revenue Automation, laid on the Table of the House on Tuesday, 19th July, 2016.

MOTION

**REPORT OF THE COMMITTEE ON TOURISM,
WILDLIFE, CONSERVATION AND ICT ON
COUNTY REVENUE AUTOMATION**

Hon. Abayo: Madam Temporary Speaker, I wish to move the following Motion:

THAT, this House adopts the Report of the Committee on Tourism, Wildlife, Conservation and ICT on County Revenue Automation, laid on the Table of the House on Tuesday, 19th July, 2016.

I believe Hon. Members have copies of this report.

PREFACE

One major challenge that county governments, Siaya included face is their inability to raise adequate resources to finance recurrent and development expenditures. Many of the counties continue to rely on the allocation of the equitable share of revenue raised nationally.

Article 209(3) of the Constitution of Kenya, 2010 provides that a County may impose property rates, entertainment taxes and any other tax that it is authorized to impose by an Act of Parliament. Similarly, Article 209(4) provides that the National and County Governments may impose charges for services they provide.

It is also important to note that Section 120(1) of the County Government Act, 2012 provides that a County Government or any agency delivering services in the County shall adopt and implement tariffs and pricing policy for provision of public services. Section 120(3) further provides the guidelines for the tariff policy. Thus, there is need to develop policies and enact specific legislation in order to justify and legalize the pricing of fees and charges levied for services offered in Siaya County.

EXECUTIVE SUMMARY

Madam Temporary Speaker, in order to enhance effective service delivery, the County Government of Siaya undertook a review of its existing operating systems; notably, financial and accounting, revenue collection, planning and budgeting, procurement, fleet control and management, assets register/inventory, personnel management and tracking of development projects alongside a review of the existing ICT systems. The study revealed the need for enhanced information system in the management of public affairs and public funds taking into account the ever-changing times in terms of new technologies and market trends.

One of the key interventions to bridge the gaps identified was not only to put in place policy and legislative framework to enhance /widen revenue collection at the sources, but also automate

revenue collection in order to seal revenue leakages and therefore increase revenue collected.

The spirit of fiscal decentralization is that County Governments should generally be in a better position than the National Government to identify local needs, and to deliver public services more effectively. They are enjoined to identify and raise revenue from local sources in form of rates, property tax, fees and fines among others to boost their financial base for development of the Counties.

Currently, revenue collection in Siaya County Government is characterized by leakages and under collection of revenue hence the need to enhance own revenue collection sources through proper identification and development of internal revenue sources. Mobilization and generation of revenue in Siaya County is widely carried out using manual processes and use of out-dated techniques and methods.

ICT presents various opportunities ranging from revenue sources identification and property mapping, tracking of development process, issuance of permits, easy record keeping among others, which Siaya County can harness to improve revenue mobilization. Siaya County needs to carefully identify and automate revenue management processes and boost revenue collection capacities.

Introduction

Madam Temporary Speaker, Siaya County Government has over the years performed dismally on revenue collection. The inability of the County to raise adequate resources to finance recurrent and development expenditures has stood out as a big challenge faced by the County. The hue and cry from all and sundry

pertaining to dwindling statistics on revenue collection coupled with concerns raised by several stakeholders regarding the poor performance of the County Government on revenue collection has further complicated the equation.

For instance, in the 2015/2016 FY, the total revenue collected by the County Government stood at 40%, far below the expected revenue in that Financial Year. This can partly be attributed to the fact the County still relies on inefficient manual systems to collect revenues which are prone to leakages and mismanagement instead of embracing ICT in its endeavour to maximize revenue collection. This has made Siaya County to over rely on allocation of the equitable share of revenue raised nationally which do not meet the financial threshold of the County instead of increasing their own resource base.

In order to redeem our image in as far as revenue collection is concerned, the County needs to have effective ICT systems in order to maximize revenue collection. This is the only sure way of galvanizing the dwindling performance of the County on revenue collection.

In connection to this and with the advent of devolution, the Commission on Revenue Allocation (CRA) has worked closely with county governments along two key recommendations namely:

1. The need for county governments to put in place policy and legislative frameworks to enable them collect revenue/widen their sources of revenue
2. The need for county governments to automate revenue collection in order to seal revenue leakages and therefore increase their revenue.

In this regard CRA organized a County Revenue Automation Conference at the Great Rift Valley Lodge – Naivasha

on 14th -17th July 2015 with a theme: “*ICT in Counties: The Game Changer*”. During this conference, various counties for instance, Kericho, Kiambu, Machakos and Kirinyaga among others shared their experiences- successes and challenges on revenue collection and proposals made for implementation.

In view of this, the Assembly Committee on Tourism, Wildlife Conservation and ICT undertook a benchmarking visit to Kiambu County owing to the fact that the County had succeeded in digitalizing over 80% of its operations.

The objectives of the Benchmarking were;

- To identify the type and the extent of which ICT systems have been implemented and adopted in Kiambu County and recommend best practices that Siaya County Government can borrow.
- To identify challenges encountered during implementation and adoption of revenue management systems in Kiambu County.
- To identify the critical success factors for implementation and adoption of ICT systems
- To share experiences with Kiambu County on revenue management automation

1.1 Committee Mandate

The Sectorial Committee on Tourism, Wildlife Conservation and ICT Committee was constituted pursuant to provisions of the County Assembly Standing Order 192 (4) and (5) read together with part 2 of the Fourth Schedule of the Constitution of Kenya, 2010 and is mandated to;

Investigate, inquire into and report on all matters relating to the mandate,

management, activities, administration, operations and estimates of the assigned departments;

Study the programme and policy objectives of departments and the effectiveness of the implementation;

Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;

Investigate and inquire into all matters relating to the assigned departments as they may deem necessary and as may be referred to them by the County Assembly;

Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Membership of the Committee

The Committee comprises of the following members:

Hon. Jared Abayo
 Hon. Nicholas Aneme
 Hon. John Gare
 Hon. Elisha Okuku
 Hon. James Otare
 Hon. Joseph Agoko
 Hon. Anastancia Augo
 Hon. Mary C. Ajwang'
 Hon. Sylvia Migaya
 Hon. Margaret Oketch
 Hon. Shabaan Omar

Committee Meetings

Madam Temporary Speaker, allow me to pint out from the onset that in order for the Committee to prepare adequately for the aforementioned benchmarking visit, a series of meetings were held in the County Assembly boardrooms. During the meetings, Committee Members did a

thorough introspection on the scope of the visit. A total of 14 sittings were held hitherto the benchmarking visit.

1.4 A Brief Synopsis of Kiambu County Assembly

Madam Temporary Speaker, Kiambu County Assembly was established after the March 4, 2013 general elections. Three years down the line, the Assembly has achieved a lot notwithstanding the challenges that County Governments have been going through during this transition period. It is one of the biggest Assemblies in Kenya. It consists of 87 Members, Sixty (60) are Ward Representatives elected by the registered voters of the wards while Twenty Seven (27) members are nominated by the County Assembly political parties according to their proportional representation in the County Assembly to represent special interests including persons with disabilities, minorities and the youth pursuant to Article 177(c) of the Constitution of Kenya, 2010.

Observations/Findings

Kiambu County Government has invested immense capital in automating its revenue collection and monitoring system. The amount spent is approximated at about 800 million shillings. Largely, the bigger chunk of the expenditure was on acquiring and installing the revenue system. Networking of all the sub-counties up to the village level through fiber, cable and microwave connectivity has largely contributed to the implementation success.

Kiambu County is privileged to be in the outskirts of Nairobi city and therefore services like fiber connectivity were readily available. GSM networks connectivity e.g. Safaricom, Orange and Airtel were also elaborate in the county.

Such networks were very crucial for the revenue system to work efficiently up to the most remote areas of the county.

The automation process done by Kiambu County Government was done in several stages including;

- a) Networking of sub-counties:- This entailed setting up internal network infrastructures at the sub-county offices which would therefore be manned by an ICT officer in each sub-county and the same replicated throughout the entire County.
- b) Fiber/Microwave connectivity: - The sub-counties were then inter linked through the use of fiber and/or microwave connection. This enabled the headquarter to adequately monitor the revenue collection system 24/7 and offer quick solutions in case of technical hitches that may arise causing loss of revenue.
- c) ISP (Internet Service Provider):- The County then identified an ISP that was capable of handling the huge capacity of data expected throughout the county. Safaricom Limited was chosen after a competitive bidding process was undertaken. Safaricom offers Kiambu government a connectivity bandwidth of approximately 80 Mbps Up/Down which adequately runs the system.
- d) Digital POS (Point of Sale) Terminals and VISA Digital Cards:- Kiambu county government tendered for the requisition of POS terminals to be used for receipting and transmitting the data on revenue collected in real-time to the main data center in Thika town. The County also

acquired VISA Digital Cards which are used by traders and people to pay for the various services that the county is charging levies on. The main system dubbed “County Pro” is managed by Strathmore University and the service is outsourced to them for ease of maintenance and administration. The POS terminals are provided and supported by KCB Bank in partnership with Riverbank.

As a result of the automation, Kiambu County Government now enjoys the robust infrastructure which has enabled them to incorporate other useful systems like GHRIS (Government Human Resource Information System) throughout the county. They have also implemented a system dubbed “e-Cabinet” which is a teleconferencing system that enable the cabinet including the CECs, Chief Officers and others to hold meetings from the comfort of their offices through teleconferencing. This has greatly improved service delivery since the officers don’t have to travel to Kiambu headquarter to hold meetings. Meetings may also be held as frequently as required without the worry of travelling logistics.

The key areas of revenue streams for Kiambu County include;

- Rates payments.
- Single Business Permits (SBP).
- Property Rents Collections.
- Promotions/Advertisements
- Self Help Groups collections.
- Market fees.
- Gate collection fees for stadia and other events. etc.

1. Sealing of revenue leakages;

Kiambu County Government has employed revenue inspection and monitoring officers from the National Youth Service. These officers ensure and enforce the collection of revenue. The county government also has tasked senior managers in the revenue department to make impromptu visits to various collection points with a view to ensure that the attendants are adequately receipting the collections. The revenue attendants are closely monitored and the targets can be remotely switched off in case suspicious activities are noticed. The POS targets are also serialized and designated in specific regions and one attendant cannot use the same in another location.

Further, stern actions have been taken against officers who have been found to embezzle the collected funds. This included sacking of the officers as well as arrest. This has made the serving officers aware that such improper practices are not tolerated by the county government and has circumvented the revenue leakage previously experienced by Kiambu County Government.

2. Cost distribution;

The implementation cost of the automated revenue collection system was distributed in areas including Local Area Network (LAN) setup throughout the 12 sub-counties, Wide Area Network (WAN) setup to inter-link the sub-counties with Kiambu County headquarter in Thika town, data center setup and purchase of the hardware and software infrastructure which included several servers like monitoring server, Domain Name Service (DNS) server, Revenue hosting server, e-Cabinet Server etc. A substantial amount of investment was also used in setting up a robust and secure data center which is

manned 24 hours and monitored throughout to ensure that all the attendants are using the POS terminals in the designated areas to collect the revenue as planned. The data center also provides a storage backup point with offsite backup being done periodically through push system at undisclosed location away from the county headquarter. A management system called “Zizi County” was implemented and is outsourced to KCB in collaboration with a company known as Riverbank and this provides the platform on which the entire revenue collection system rides.

3. The committee had the opportunity to be taken to various units in order to get the insight into the full operation of the revenue collection system. The areas the committee visited included;

- i. The Members were taken to the data center located in Thika Town where all servers were kept. They observed several core network equipment including monitoring server, Domain Name Service (DNS) Server, Revenue system server, e-Cabinet Server among other systems. All transactions carried out by the attendants are reflected in real time through the monitoring server and such transactions are tallied automatically with log records of each transaction in real-time. Members also observed the system reports and business intelligence systems.
- ii. Members were taken to the communication rack. This particular section deals with communication matters within the County. It manages the

communication network of the County. There was also a PABX, where Safaricom, Airtel and Orange lines are connected. If any employee from the Sub-County wants to call anywhere, then they will just make the call and it is a local call since it is one network and the County Government will be billed for all the calls at the end of the month. This is done in a bid to save on the cost of airtime.

- iii. The Members of the Committee were also taken to the revenue office, where the intricacies of what goes on there were explained to them. In the revenue office, property rates, self-help group's fees, alcohol licenses and house and property rents are paid for in cash office other than the *Digitika* card.

The Temporary Speaker

(Hon. Adida): Hon. Abayo, kindly use your microphone!

Hon. Abayo: Sorry, Madam Temporary Speaker. I thought it was on.

- iv. Members were shown how the unstructured revenue is paid for. Unstructured revenue include parking fees, hospital revenue and market cess. The money may be collected during the day, but at the end of the day, the revenue collectors deposit the money to the revenue office and hand over the money to the cashier. The cashier will then account for the money from the Point of Sale (P.O.S) reconciliations. The P.O.S has two kinds of report; the Y Report and the Z Report. A Y Report shows the collector himself and how

much money he/she has collected. A Z Report is done by a supervisor who comes to confirm that the total amount of money is correct at the end of the day for reconciliations purposes. After confirmation, the money is recorded in the system and the cash book.

- v. The Members were informed that the monetary allocation given to the department in the financial year 2014/2015 went into the setting up of the cashless system in February 2015. Since the County Government started collecting money, up to the end of the financial year, a total of Kshs. 2.1 billion was collected. This was a steady increase from the amount of Kshs. 1.3 billion collected during the previous financial year, signifying an 80% increase in the revenue collection.
- vi. One of the biggest benefits of the automation process is that the County Government has gotten visibility of all the revenue collected by the County. This was not the case previously, and a lot of revenue was lost in the process. There is a record in the system on how much money each revenue collector has collected since the system began. The entire system facilitates revenue collection and this has led to an 88% increase in revenue collection throughout the County.
- vii. The County Government also introduced the *Digitika* cards, with the intention of going fully cashless. With these cards, one can pay for parking, markets, and even hospital. This is encouraged in a

bid to eradicate the handling of cash by revenue collectors, and so minimal opportunity for loss of cash.

viii. The Members were also informed that there is no possibility of the system being hacked, and there was no opportunity for any pilferages of cash. Hacking could prove to be rather difficult, because the County Government not only runs the data center in Thika, but there is one at the Kenya Commercial Bank (KCB) and one at Strathmore. This makes hacking rather difficult because one would have to hack the data center at KCB and at Strathmore University. These two places also act as back up for the data center in Thika.

ix. Despite attempts by the revenue collectors to come up with ingenious ways to steal money, the County Government has done its best to eradicate these instances. It is also rather difficult to make away with any cash because there is a clear audit trail of how much money was collected, and who collected it in the system.

x. One of the key challenges experienced by the County Government in the automation process is the infrastructure; the network. This has been redeemed by proper budgetary allocation in the ICT Department; the ICT personnel have been able to do a good job. The current infrastructure will be able to go for the next 20 or so years, depending on the technology.

xi. The County Government is also taking an initiative to register all

the property owned by individuals in Kiambu County. It had engaged the services of 45 youths for the next 90 days who went to the survey of Kenya, picked the maps, scanned and digitized the details. They then picked maps from the County lands office and entered the names of all the people in the system. This has assisted in revealing detailed account of the property and the people who own them. Through this approach, the County Government will be at a vantage point of tracking the payment behaviors of property owners.

Madam Temporary Speaker, allow me to state two other key findings worth noting

a) Establishment of Ward Offices

Kiambu County has established 60 ward offices with a number of staff per ward. Furniture in the offices consists of an executive desk, orthopaedic office seat, two visitor's seats, a metallic cabinet, office desk and medium fabric seat. In addition, Ward officers employed by the Assembly are also facilitated for the running of these offices. I think the County Assembly of Siaya has endeavoured to do the same.

b) Capacity Building

Through the Office of the Speaker and the Clerk, the Assembly has built the capacity of both Hon. Members and the staff through trainings and benchmarkings. Example is Public Private Partnership (PPP) with Mount Kenya University and United States International University for capacity building. Currently, about 40 MCAs and staff are undertaking Bachelors Degree and Diploma courses in Public

Administration & Governance. The USIU-MOU is under implementation stage.

On the issue of budget, Madam Temporary Speaker, allow me to point out that the Committee learnt that Kiambu County allocated Kshs. 450 million for ICT and increased their revenue from Kshs. 1.2 billion in the 2013/2014FY to Kshs. 2.1 billion in the 2014/2015FY. In the 2015/2016FY, the County has projected to collect Kshs. 3.4 billion. Thus it is imperative for Siaya County Government to draw a budget line in the 2016/2017FY to support the implementation of digitalization of revenue collection. Nevertheless, it is important to appreciate that ICT, if implemented in Siaya County, could bring in revenue and generate more income for the County. Furthermore, automation will help fight corruption, ensure efficiency and security of revenue remitted.

5.0 Recommendations

Madam Temporary Speaker, I wish to state that more recommendations have come up and if we are to pass this Report we will pass it with amendments.

The County revenue automation conference and the benchmarking visit to Kiambu County acted as an eye opener to the Committee in the arena of revenue collection. The Committee learnt that Siaya County can implement the following strategies in its quest to enhance revenue collection and utilization of ICT in general.

1. For Siaya County to take full advantage of ICT related growth and development, there is need for sufficient ICT budget allocation at a minimum of 5% of the total budget of the County.
2. All ICT related budgetary

4.0 Conclusion

requirements in all Departments in the Executive should be domiciled in the Department of Tourism, Wildlife Conservation and ICT for easier coordination. Madam Temporary Speaker, I wish to reiterate that various departments, in an endeavour to mainstream ICT have allocated monies to digitalize their records. The Committee is proposing that all these money and all these needs be domiciled in the ICT department because it is where we have the technical team able to do the implementation.

3. A line budget should be drawn in the 2016/2017 budget estimates to assist in establishing the Siaya County ICT Data Centre. Madam Temporary Speaker, allow me to congratulate this House for passing a budget to set up a data centre for Siaya which will handle data for both the Assembly and the Executive.
4. There is need to form an ad-hoc committee of the County Assembly to effectively oversight revenue collection for a given period in order to ensure that local revenue collection increases by 50%. Madam Temporary Speaker, we are cognizant of the fact that we have a standing Committee on Finance and Trade that should be able to handle the issue of revenue; but this Committee feels that an ad-hoc committee with relevant representation be charged with the responsibility of making sure that there is an increase in revenue. In 2013/2014 FY, we did project to

raise Kshs. 153million as local revenue; in 2014/2015FY we did raise it to Kshs.301million; in 2015/2016FY we projected to raise Kshs.230million; but in 2016/2017, the Executive proposed Kshs. 200million. That shows that the Executive has given up in the collection of revenue. We as an Assembly, taking up our oversight role, need to show them that they can increase that revenue. Despite them lowering the amount to be collected in this Financial Year, the Assembly Committee on Budget and Appropriation raised it to Kshs.270 million.

5. In order to maximize the collection of revenue within the County, the Executive needs to automate and digitize revenue management processes. Madam Temporary Speaker, this House is aware that in the FY2015/2016, we committed Kshs.25million for a pilot project on digitization of revenue and the report of that exercise has never been presented to this House. With the Kiambu experience and with proper investments we will be able to raise more money.
6. The Executive should finalize the ICT Policy and fast track the development of E - Government Bill within 60 days.
7. The Executive should identify and engage willing partners in revenue collection especially the banking institutions through Public-Private Partnerships.
8. The Executive should deploy law enforcement team to appropriately monitor and enforce regulations and carry out capacity building for the whole revenue team
9. The Executive needs to initiate loyalty schemes and whistle blowers award scheme, reconcile daily and monthly revenue collections and widen rate payers base i.e. bodaboda
10. Madam Temporary Speaker, we have seen the E-Cabinet and how it works; the Committee proposes that the County Government undertakes the training of Members of the County Assembly and all the staff on the need to embrace ICT. Through proper trainings, we can come up with E-Assembly that will ensure that even Members can attend their Committee meetings from the comfort of their Ward offices.
11. Madam Temporary Speaker, the Committee wants to propose that the County Assembly initiates a partnership with our local universities so that Hon. Members can also undertake trainings. For example, Jaramogi Oginga Odinga University is already offering training on county governance and I want to appreciate that there are Members of this House who are already pursuing that course. A partnership with such university will equip Members who will in turn add value to this County.
12. The last recommendation, Madam Temporary Speaker, is on PABX. We have seen the interlink between Safaricom and Airtel and how officers from the Wards are able to communicate. This is a system that if well considered, will help us cut down on costs.

Finally, on behalf of the Committee, it is my pleasure to Table in this Assembly, the Committee's Report on Revenue Automation and I urge the House to adopt it with amendments.

I ask Hon. Augo to second. Thank you.

Hon. Augo: Seconded.

(Question proposed)

Hon Oriaro: Finally, it's my pleasure, on behalf of this Committee to table this report of the Committee on Tourism, Wildlife Conservation and ICT on benchmarking visit on Revenue Automation that was tabled on 19th and urge the members to adopt it with amendments. I want to ask Hon. Augo to second.

The Temporary Speaker (Hon. Adida): Hon. Members, I now propose a question:- THAT this House adopts the report of the Committee on Tourism, Wildlife Conservation and ICT on benchmarking visit on revenue Automation laid on the table of this House on the 3rd August, 2016.
Yes, Hon. Member for Central Alego, Hon. Oriaro.

Hon. Oriaro: Thank you for giving me an opportunity, as I arise, I am told to speak in simple English which...

The Temporary Speaker (Hon. Adida): Hon. Oriaro, you are out of order, can you use simple English that everyone can understand!

(Applause)

Hon. Oriaro: In deed this report needs to be supported but according to me, if we were supposed to embrace the concept of disciplinary where various levels of disciplinary on dialectical basis bring forth the organic whole, then in deed

this report should be supported. I was getting persuaded somewhere since the report recommends the formation of an ad hoc Committee and I was really disturbed, believing that this report as tabled by Committee on ICT was being done on behalf of other Committees while the body of the report are services that should be in other Committees.

Like the issue of revenue as well as recommendations as are seen. Its only number 1 and 6 that truly belong to the Committee while the others are not, i.e. recommendations 2, 3,4,5,7 and 8, the Committee had gone overboard. When the chair talks about amendments, it's against the parliamentary regulations. So is it right if I also propose an amendment that other recommendations be deleted but again I am in the belief that if conquest has to be ensured on the material base, then conquest in the form of digital conquest is ineluctable.

It is saddening when we see on the news that some of our sister Counties are now going manual even their payroll people lining up at the Stadium to be paid like in Homabay and Migori and Members are all aware of this. We cannot pretend that they do so because of ICT leakages; to me this is refusing to come of age and just robbing the people without violence. If indeed by embarking on ICT or a digital platform can help us negate that character then so be it and we will say Amen to it, I support.

The Temporary Speaker (Hon. Adida): Hon. Member for East Ugenya!

Hon. Ndonji: I want to start by saying that I support this report, we have always stated here that the essence of Benchmarking is to find out what is being in other Counties that are not done here or

what is being done there in a better way than we do here. Looking at what actually took the Committee out for this Benchmarking, we find that it was very important for our County because it clearly states that the objective was to enhance effective service delivery. They undertook a review of existing operating systems, notably financial and accounting, revenue collection, procurement, fleet control, planning and budgeting, personnel management, assets and tracking of development project alongside a review of ICT systems.

This indicates that the reason for this benchmarking is well crafted and was very ideal. Apart from that this report highlights the importance of Devolution in identification of local needs in view of effective and efficient service delivery, which means that if implemented, we may increase efficiency and service delivery to the electorate.

It is also paramount to note that there was more revenue collection during the Revenue Authority than what we are currently collecting and the question we ask is if there are leakages or the greed in our collectors has increased, also even if we are not collecting from certain items that they used to collect from. This brings the case in which the County Government may probably say this is the much we want to collect yet we collected this much.

I can highlight that the choice of Kiambu County has adequately been justified as being up as it is said that they have already succeeded in digitizing over 80% of their operations, therefore this means that we are aiming at doing over 80% as they have done or even better. The report has also given us the objectives which are tied towards ICT and revenue collection.

There is one more thing that I would like to correct, though it is in the Hansard when the chair read the 4th Schedule of the Constitution Kenya, where instead of reading 2012, he read 2010 and I would like us to be clear on that. As I move along, you will find that it is said that Kiambu Government chose Safaricom limited after competitive bidding process. I want to say that when we talk about professionalism, we have to have that competitive bidding system and when it is done yet we do not get the right people then it is a process in futility.

I have also come to learn that Kiambu County does teleconferencing which economises expenditure on services like transport logistics where one do not need to move from their places of residence to attend meetings as they can do it at the comfort of their offices. This type of arrangement prevents expenditures of lunches and other allowances that the Members need to be paid on physical appearance to attend meetings hence this is one of the best practices by a County. As we move towards digitization, it important that the Executive be willing and have goodwill as well as be committed to do what is right for the County, apart from what has been highlighted here...

The Temporary Speaker (Hon. Adida): Hon. Member, you realise that you have only two minutes left so that others can also have time to contribute.

Hon Ndonji: Madam Speaker, I hope that the two minutes that you have counted out is from my time. I want to say that, I'll be talking about the bonding, but I want to say that some of the recommendations have not come as a result of this visit as much as I can see, but seemingly they have come spontaneously from what the committee has experienced within the county and some of them probably, for example; when they say that

2016 SIAYA COUNTY ASSEMBLY DEBATES

we need this advert committee, this was just a recommendation because they have a feeling that it is important to have such a committee despite the fact that that was not there. They may not have talked about this issue of loyalty schemes and use of blogs but I tend to think that if we have a fully digitized system, we may not even need to have these loyalty schemes and use of blogs.

Madam speaker, probably if I wanted to add to the recommendations just because the chair already said that he was giving some amendments, I would also want to add amendments in which I want to say that it is very important that we also introduce those digital cards even if its 'digita cards' or we've got other names for these cards. We need to have them and use them within the county.

I also want to urge in recommendations that we embrace this teleconferencing facility so that at least our expenditure can go down.

Recommendation number 3 which says that a line budget should be drawn in the 2016/2017 budget estimates to assist in stabilizing the Siaya county ICT data centre, to me that one sounds as a request and I tend to think that we should be coming up with recommendations that will compel the executive to do what is supposed to be done and therefore I tend to think that it would have been said that a line budget should be drawn in the 2016/2017 budget estimates to establish the Siaya County ICT data centre.

As I conclude, madam speaker, there is another recommendation no.6 that the Executive should finalize the ICT policy and fast track the development of e-government bill within 60 days. It's a valuable recommendation. My only fear is that rarely do the Executive adhere to these

timelines that we do give them in the assembly and I think it is important that this time around they adhere to this recommendation and ensure that these things are done within the 60 days.

In addition the Executive to deploy law enforcement team to appropriately monitor and enforce regulations and carry out capacity building for the whole revenue team. I might say that this law enforcement team already exists, otherwise I support the report. Thank you, Madam Speaker.

Madam Temporary Speaker:

Hon member for west Sakwa, Hon Gare!

Hon Gare: Thank you, madam speaker. I want to thank the committee of tourism and ICT and its able chair, honourable Abayo for presenting such kind of a report; indeed it is worth adopting. It is unfortunate that it is a norm in this house that whenever we come up with a report, the first person to speak is the chair of Implementation and immediately after he has spoken, he leaves the House while these reports are supposed to be implemented. How therefore will these be implemented if the person in charge of that committee always speaks first and leaves, he is not here to get what members are saying and even if he is speaking he is not communicating? How could we have anatomy in a report? Anatomy is something to do with damages and structures not about the report.

Madam speaker, let me continue but I want to request the speaker's panel to look into it such that if this is the case then the chairperson of Implementation should be talking last because he is always given the first chance then he leaves without listening to what we are saying, it is not right!

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Applause)

Madam speaker, I want to support this report by saying that:

- i) If we will need to go the digital way as a county like Kiambu County which allocated Kshs.450 million for the ICT but were collecting Kshs. 1.2 billion then it increased to Kshs.2.1 billion for using Kshs. 450 million. For us as a county, the Executive was proposing Kshs. 200 million, but we thank God the committee of budgeting increased it to Kshs. 270 million, however, Kshs. 270 million compared to the Kshs. 450 million which was used by Kiambu County and gave them Kshs. 2.1 billion is still not a match. So, for sure this is why we are saying the Committee of Implementation if you are here, help us because the reports are passed in this House but they are never followed up.

We need to go this route as a county because you realize as we speak we are still manual. If you go to Akala where they have the receipt you will get the receipt book in Akala different from the receipt book in Usenge and some of these receipt books are personal. They collect the money but don't remit this money and we are not getting the money as a county.

We need to stand alone as a county if we want to depend

on the central government to use the money given that we know how they operate. They are not happy with devolution and as it is you know in the new constitution there was only money for devolution while those who are now implementing devolution did not want it from the start. Therefore, for that matter they are not ready to give us money hence we should look for ways on how to collect our own revenue. We want to request that this report for sure should be implemented.

- ii) I want to support the issue of the ad hoc committee. If you want to look at how the revenue in this County is being collected, it is important that we adopt this report and we implement it to the latter such that this ad hoc committee is put in place. There is nothing wrong in having it for some time so that we also see, because we pass along those roads and see the way people are collecting revenue and they do not remit this money. Actually the report is self-explanatory and the reports here for sure if they can be implemented then Siaya will move to another level. I want to request the Hon. Members that for sure let us adopt this report but then, today we have gotten a report here that is calling on the County Assembly to implement as much as we are calling on the Executive to

implement their side as we also implement our side. In this report there is part for the County Assembly to also do its implementation and help us see how the County collects revenue. As we look forward for the County Assembly to put in place the ad hoc Committee, let us also look forward for the help of this Committee of Implementation and how the executive can also implement this. Thank you and I want to ask members to support this report.

The Temporary Speaker (Hon. Adida): Hon Member for south Sakwa, Hon, Aneme!

Hon Aneme: Thank you, madam speaker, for giving me this chance to support this report. I want to support this report with some few emphases. Our said Bench marking in Kiambu was to identify the type of ICT and to the extent to which the ICT system is being implemented in Kiambu that was making Kiambu to be rated as the best in the Country. Another reason for the benchmark was to go and borrow the best practices.

I want to convince you that what we learnt in Kiambu was the best, the most pleasant and excellent, again what we learnt in Kiambu was an eye opener and whoever can stand up and criticize is not serious! Truly speaking, the essence of devolution was that we have the region of governance to be self-autonomous and today Kiambu is self-autonomous because already what the National Government is giving them is half their Budget, therefore whatever they are collecting is just half of what they are earning from the Ex-chequer release fund. So they have gone far ahead

of Siaya County, instead of collecting the Kshs. 300 million that was projected at the start of 2013, it has only realized Kshs.150 million which is a total joke!

I wish we could adopt this report and take it as our responsibility together with the Executive to push forward this report as a team and implement it. The world has become like a one big family and the idea of digitization has become a normal thing which is a life that everybody must live. If you look at the areas these people have digitized like the records including; the land records, the survey records, human resource records, shops and all the plots in Kiambu are given in such a manner that the rates that are to be collected is to go into their kitty 100%.

It is a collection that tells you right in the office who has submitted their money and who has not. This is a very good system that we should emulate, therefore, I want to support this report and when you look at the area of E-cabinet, the idea of the vehicles running around with Members is not there in Kiambu. These people are having cabinet meetings in their offices through the system. What is it my dear friends that we cannot accomplish? So, madam speaker, this document to me is self-explanatory. I was one of the team members who were there and what we saw if only we were to implement, the implementation of this report could have been taken immediately as we came back from Kiambu. Madam speaker, I support.

The Temporary Speaker (Hon. Adida): Hon. Okite!

Hon Okite: I would also like to add my voice on this by supporting this report, first by congratulating the committee for bringing such a valuable report to the House. Madam speaker, indeed I have very few points to add, the

previous speakers have spoken very eloquently on matters that should be attainable. I would like to concur with Hon. Gare that we get this report implemented and indeed other members have also agreed that this report should be implemented.

I would like to stress that the Implementation Committee should work very hard and make sure that the report is implemented and in order to do so, I would also like to urge the chairperson for implementation to always sit and listen to members as they debate because he only debates on the report then leaves, then he is later eager to know what the Members said and yet we need to work on the implementation along the lines that Members have debated on.

A few points to add as the previous speakers have spoken eloquently on matters that should be available, I would like to concur with the Hon. Gare that we let this Report be implemented and indeed other Members have also urged that this Report be implemented.

The point that I want to stress is that the Implementation Committee should work very hard and make sure that the Report is implemented. In order to do this, I would also like to urge the Chairperson for Implementation to always sit and listen to Members as they debate because if you deliberate on a Report and he leaves, then how will he get to know what the Members said so that he can work on implementation?

How does he get to know what was said so that he can work on implementation along the lines that the Members have debated? Hon. Oriaro must be impressed upon to leave the House to listen to the debate and then of course implement. The Chair or Speaker should

always ensure that Hon. Oriaro speaks the last person on a Motion.

It is baffling that the people of Siaya who hitherto were known to be the most learned in this Country, we have the largest number of professors in any field and we have various people qualified in various disciplines be it agriculture, engineering, survey, doctors and nurses but now we are the ones who need to go and find out what other Counties like Kiambu are doing.

We need to also put our best foot forward so that what should be done is done. It is true that we benchmark to enhance our knowledge on the work that we do. We benchmark in order to come back and say yes we are indeed doing the right thing or that in this particular area we are not doing as well. We must move with speed to do that which is necessary.

ICT is the way to go world over now. Of course we now find the reasons why in Siaya we cannot even collect enough revenue. If we were to go digital and ensure that every penny that comes to the County in form of revenue collection is there, we would not be in the situation where we find ourselves now but because money is going elsewhere it is being siphoned left right and centre by people who pick it the way they like and people who pinch receipts. We will never grow, we will never get better.

A County like Kiambu is richer and has so many other ways of getting money. They have coffee, tea and big factories which have been there for years. Proportionately, we should also be doing as much as we can with what we have because if this money is collected and even if we were to have the big factories like Kiambu has and have the Coffee and do well in agriculture we would never have

this money come to our kitty. So the best way to go is ICT.

Suffice to say that there are people who are now going to our Universities and Colleges here within the County to equip themselves more. We must also look at ways that these people who have the interest are encouraged, like Kiambu County are having an MOU with Mount Kenya University and are working on having an MOU with USIU. This encourages people to learn. Some of us cannot start doing something unless we are persuaded. Some of us will not do anything well unless we see others doing it well.

I support this Report and I support any initiative that will be brought on board and that will make sure that our Budgets are proper for ICT and that whatever we should pursue is not getting lost simply because we are not digitalized. Thank you Madam Temporary Speaker.

The Temporary Speaker (Hon. Adida): Hon. Member for East Gem.

Hon. Minami: Thank you, Madam Temporary Speaker, for giving me the opportunity to contribute to this Debate. I would also like to thank the Committee for the work they have done and for the kind of Report that they have brought before the Assembly.

In the past 3 years what have we done that has made us loose our revenue collection on human resources? Is the Executive up to the task? We might have a Report as good as this one but the implementers are not willing or might be willing but don't have the necessary qualifications to do so.

The Executive should embrace technology as it was seen in Kiambu. The Executive embraced technology from the word go and that is why they are able to

increase their revenue from Kshs. 1.2 billion to Kshs. 3.1 billion in 1 year.

Increasing technology is making sure that you provide for resources to make sure that technology is all over the County.

While we are employing people in different fields, the fields where we expecting revenue to come from, we should employ people based on their qualifications and not based on relation with anybody within the County. This will help make sure that we have the best qualified people to give sound advice to make sure that the County moves forward.

At the moment we find that those people, who are manning revenue in this County, are people who are former employees of local authorities. Some of them are former clerks and former accountants who when you look at the Reports of Public Service Committee are people who have been found to have embezzled resources at their disposal when they were in the former positions.

They are the ones who are managing the resources. You will find that the Chief Revenue Officer is a former clerk. Those are the kind of people who don't even have the right ideas to help our County in making sure that we collect proper revenue.

This County does not look into various sources of revenue; the County is depending on very few areas of resources. This will make sure that we are able to get even 50% of what we project as revenue. In this kind of scenario, our County will still depend on money that is brought from the National Government.

It is crass to hear that Kiambu County is now projecting to collect Kshs. 3 billion, it doesn't matter the amount of riches that is there, and our County is endowed with untapped natural resources

than even Kiambu County. What is the leadership doing about it? It means that somebody is inept somewhere in the management of affairs in this County. It means that the people who have been given the responsibility to manage revenue collection and the affairs of our County are incompetent.

It takes only 4 days for a Committee of this House to come up with a Report as good as this one. The Executive has a habit of globe-trotting in the name of going to benchmark but we have never seen a Report this good.

A lot of taxpayer's resources have been used to go to America, Germany, South Korea and all those places where technology is being embraced. If you go to the above Countries everything is digitalized. We have never seen anything tangible being brought not only to the Assembly but even somebody standing somewhere and saying that we went to South Korea and this is what we have learnt.

It is high time that this House stops the misuse of public resources for trips that are not beneficial to the common man. I think the time has come that as a House we make sure resources that are being allocated to the Executive are being used for the benefit of our people.

It is very important that as a County we create an environment where an investor will come and invest. That environment will make sure that the County is going to get more resources in terms of revenue collecting from investors. Since the inception of this County Government no single investor has come to Siaya County. Nobody has set foot and set base in Siaya County. It means that as a County we have lost in terms of making sure that revenue comes to the County in

terms of making sure that many of our qualified young energetic people get employment because we have not created an environment that will make sure that investors are in place.

I want to support recommendation 4, which calls for the creation of an ad hoc Committee. That Committee is very important because we have investments or revenue that emanate from or revenue that is made from the various departments of Health or Department of lands everywhere. It is very important that we have people who will be putting the Executive on toes to make sure that their projection for revenue allocation, even if it means in the past 1 year, is met but we cannot leave an Executive where they project that in this financial year the Department of Health or Lands is projecting to collect Kshs. 100 million and at the end of the financial Year we are told that we only managed to collect Kshs. 20 million. What were the reasons and factors that made you not to reach 50% or even 60% of the target?

The final thing is that it is important to make sure that this County is digitalized as mentioned in recommendation 6. If that recommendation can be implemented even in the next 30 days then this County is going to realize an upsurge in the collection of revenue to benefit the people. I support this Report. Thank you very much.

The Temporary Speaker (Hon. Adida): Hon. Member for West Yimbo!

Hon. Ochieng: Thank you, Madam Temporary Speaker, I want to start by thanking the Committee for doing a lot of research and presenting us with a good Report after benchmarking in Kiambu which is one of the best Counties in the Country. As has been said by majority of

Hon. Members of this House I want to also support this Report.

One, we have lost a lot of revenue within our County as compared to the local authorities that used to collect more than we are collecting as a County. We know very well that as we grow the County Government has spent a lot of resources in establishing the infrastructures that improve business within the County. One

here are some revenue officers who collected some money in my Ward but they never deposited this money. When we were doing follow ups on this money is when they were saying that the money is in their pockets and it is 3 months down the line. I think when we shall have digitalized all our systems such cases will not be there.

As a County we should partner with these service providers like Safaricom, Orange and Airtel to boost our networks. It is not in order that in this County we can still walk into some parts of the County and find there is no network for communication. We should partner with these service providers so as to improve our services.

I want to summarize by saying that this Report is good and we can pass it though it should be enhanced by both the MCA's and the revenue team because as we want to adopt the ICT system I want to believe that those who are in the field collecting money have never been trained on how to operate these ICT facilities to collect the money. I think capacity building should be done so that they get informed and equipped on how to manage this County.

I support this Report and I call for its implementation as soon as possible. Thank you, Madam Temporary Speaker.

is by constructing the modern markets within the County and two, making sure that we provide the electricity to improve efficiency within those areas but still we can't collect what we had expected to collect, which means there is a leakage somewhere the revenues are going.

Recently, I witnessed some revenue officers collecting Counties money the manual way. T

The Temporary Speaker (Hon. Adida): Hon. Member for West Asembo.

Hon. Munda: Thank you, Madam Temporary Speaker. First, I want to thank you for giving me this opportunity to talk and also the Committee of ICT for bringing this good and impressive Report. How I wish every Committee could give such Reports.

On the issue of our digitalization, this one is very important for our county, we could improve collection if we embrace digitalization.. I also took note of the issue of NYS helping the collection of revenue, issue to use the officers who are employed within this Government I think we could get a lot in terms of revenue.

On recommendation number 5,6 and 7. Number 5 talks of automation and digitalization of revenue collection process, this is very key and how I wish that this could be put in place so that collection of revenue could be enhanced.

7 also talks of how the Executive should identify and bring private – public partners to help in the revenue collection especially the banking institutions. I think this should be done and it will enhance our revenue base in the County.

Lastly, I want to thank the leadership of the Assembly for allowing Lwak Girls Primary Boarding to be with us here and you know I also come from that area. I am the area MCA.

(Applause)

I also thank the Lwak fraternity for the future of these students will get time to be part of this Assembly. I support this Report. Thank you.

The Temporary Speaker (Hon. Adida): Hon. Augo.

Hon. Augo: Thank you, Madam Temporary Speaker, first of all before I contribute I just want to bring to your attention Madam Temporary Speaker that the Hon. Members are leaving the House before we pass this Report and we might not be having the quorum.

I would like to thank the members of this Committee as I am one of them who went to Kiambu and I want to thank our Chairman the Hon. Abayo and the Clerk who made this Report to be good. When we went to Kiambu what we saw there touched our heart and we were amused by what is happening in Kiambu in terms of collection of the revenue. In Kiambu, the people who pay the tax would just follow the person who is collecting and not vice versa. We were so astonished with this! They knew very well that if you don't pay you will still pay later even if you don't follow them to where they are and pay your tax.

Another thing we saw is that even in the Sub County, the Sub County Administrator just sits in his office and could manage each and everything that is happening within the Sub County without even going outside visiting the site. He would monitor the projects just within where he is.

Something else we saw is that when the collectors are collecting the revenue the officer would sit in the office on his desk and monitor each and every

person who is collecting the taxes and he would know how much you have collected even before you brought the money into the office. That's why this Report should have been passed even before the budget was done. And we would have even gotten as much money as possible in Siaya not even Kshs. 270 Million as they have said it but it could have even run up to Kshs. 1 billion if I am not wrong. Now as we have seen this Report, I would like to urge as the Hon. Members have agreed to pass this budget. This budget should be implemented as early as yesterday so that we can monitor each and everything that is happening in this County. ICT, as Hon. Abayo has been saying, is quite important; if you go to Kiambu County, you will be impressed by how those people are doing their work.

I urge my colleagues to support this report because we have been complaining that our County's revenue collection has been dwindling yet the people in our Wards are not paying taxes. If we adopt this report and implement it, this County is going to be one of the best in terms of revenue collection in Western Kenya. I support this report. Thank you!

The Temporary Speaker (Hon. Adida): Yes, Hon. Member for West Uyoma.

Hon. Olasi: Thank you, Madam Temporary Speaker. I want to comment on recommendation number 6 and 7 but before I go on, allow me to register my disappointment that though we have a very serious report, the only problem with it is that its pages have not been numbered. Recommendation number 6; the Executive should finalize the ICT policy and fast track the development of e Government bill within 6 days. I am in another Committee of this Hon. House. This

week, we were discussing a project in West Alego, the project has not been done even quarter way.

The project was passed on 16th of June, on 25th of June, the contractor moved to the site, on the 28th of the same month, the contractor was paid the full amount of money, Kshs. 1.3 million. In the real sense, on the ground, the project is not even quarter way done. If we adopt this report, we will track our projects and know when to do the payments. Otherwise, we are wasting people's money in the name of contracts being done.

As far as recommendation number 7 is concerned, the Executive should identify and engage dealing partners. You can see from the report that Kiambu County partnered with Safaricom and Orange. As the Hon. Members have indicated, the Executive has been leaving this County day in day out to go look for partners and there is nothing tangible that they have brought. What a County that cannot even partner with itself? Immediate example is the Uyoma West Water project, we lack water in West Uyoma reason being that people cannot afford water and water is a basic commodity.

The County Government of Siaya cannot even support the West Uyoma Water Company by even chipping in something small to lower the rates of water so that people can afford water! What a Government is that? If Kiambu County can partner with the local companies but Siaya County cannot partner with us! We should adopt this report like yesterday. I support the report. Thank you, so much Madam Temporary Speaker.

The Temporary Speaker (Hon. Adida): Hon. Member for Central Sakwa, Hon. Andiego!

Hon. Andiego: Thank you, Madam Temporary Speaker. Although I caught your eye too late it's good because other Hon. Members were also contributing. Allow me to take this opportunity to thank the Committee.

The Committee has done a lot to this County and as it was stated by Hon. Gare, we are now urging the Committee on Implementation to take over and even see that the report we are going to pass today is implemented so that we may make a change. Even in the field of business, if you are doing business that is just making losses, it will never grow and become what is required to. In Siaya, we started in 2013 where the projection was Kshs. 300 million and it has now gone down to Kshs. 150 million.

If we are depending on this, we are not moving anywhere. At times you wonder if it is the Executive ---from the National Government is what is used. It is true that it is only in Siaya where there are no automation machines. When you move from Siaya to Kisumu, you will see the revenue collectors with machines. If you go to Busia, you will see people using the machines and we are now four years old in this Assembly. What is the problem with Siaya? So, this report when implemented, I believe that we will see a big change.

We are just like Kiambu; we have a lot of natural resources that has a lot of money. We have L. Victoria with a lot of fish and this fish is eaten everywhere. From that fish alone, we get Kshs. 6 Million, which is a quarter of what we are supposed to be collecting. At times I wonder whether the Director or Revenue Collection is really the right person to be there. I would have requested that the first thing to be done by the Chair, there should

2016 SIAYA COUNTY ASSEMBLY DEBATES

be a recommendation on overhaul of that so that we put in place the right people who can give us services. We cannot develop if we don't have money. How comes that Siaya as a County is not collecting enough revenue. I am requesting my brother Hon. Oriaro, Chair of Implementation, that this time round, carry the report with you, we want to see a change. Let this report be implemented.

There is a recommendation number 6, that the Executive should finalize the ICT Policy and fast track the development of e Government bill within 60 days. We want that within the 60 days, you come and show us what has happened on this recommendation.

I will also request that, there should be a recommendation that after 3 months, we should be having a report in this Assembly on how much revenue has been collected in Siaya County. It should always be brought in this Assembly so that we see and follow up if the Executive is doing what is required. I don't want to bore you so much but I support this report. Thank you.

Hon. Temporary Speaker (Hon. Adida): Hon. Rosemary Ogutu!

Hon. Ogutu: Thank you, Madam Temporary Speaker, for giving me this opportunity to say something on the report which I have found on the floor of this House. I want to thank the Committee on Tourism for a very good report, I have gone through it. I have come back today and I want to thank everybody and as I left there was this issue of revenue collection which we were talking about. The County Governments were meant to put up structures and systems first before doing anything. Now that the world has gone digital, still you can find that in Siaya we are still lagging behind going the analogue

way. I told you in February, whereby we have traders coming from other Counties especially Vihiga County that is Luanda to sell their products here but they even refuse literally to pay the revenue and when you go to Luanda from Siaya you will definitely pay.

I have always said in this House that best examples are copied; the able Committee on Tourism went to Kiambu and brought us this report. I think it is upon us now as the Committee on Implementation to take it hand in hand, we are not late, it is always said that better late than never, we should have started with this but I think it is better we finish with it now.

The Committee on Implementation, the Chair, and Hon. Oriaro should always be talking last after taking the recommendations and comments from fellow colleagues. I thank you, Madam Temporary Speaker, and wish the Hon. House to support this report as it is.

The Temporary Speaker (Hon. Adida): Hon. Member for Yala Township, Hon. Awour!

Hon. Awour: Madam Temporary Speaker, I want to thank you for giving me this chance and I want to declare from the start that I support this report. Allow me to repeat what my colleague, the last born in this House, Hon. Olasi has said, that despite the fact that I am supporting this document/report I think the Committee should have numbered the pages so that we follow it closely.

A lot of things have been said about digitalization. I sit in the Budget Committee, and this House has passed budgets of various financial years, we don't know what has been happening. The Executive has failed to implement the

2016 SIAYA COUNTY ASSEMBLY DEBATES

budget and that particular component of digitalization. We cry every time that we are losing a lot of money. A lot of condemnation has been put on the former local authority staff in this County, I think it is not fair to state that those who were working in the former local authorities are now heading various departments and now we lose a lot of money, I think that is not fair because those individuals cannot come here to defend themselves.

I want to say that those who were working with the local authorities some are still working in the County Government and in various key positions and are working very well. I want to give an example of the PFO of this Assembly who was a staff in the former local authorities and I want to say that I cannot question his capability.

A lot has been said about the Implementation Committee Chair; allow me to differ briefly with my colleagues. The Chair of Committee on Implementation is not the implementer, the implementer is the Executive.

(Applause)

If there is something that we have passed as a report, various Committees need to follow up their implementation. The Committee on ICT headed by my good friend Hon. Jared Abayo, needs also to follow the implementation of such a very good report. I want to appreciate the people of Kiambu County Government. Last week we passed a report here on lands and issues that have been brought here are and foremost, I am very keen about the objective of benchmarking of the Committee on Tourism, Wildlife and ICT. The area that I have a concern is to identify challenges encountered during implementation and adoption of revenue

almost similar to what the Committee on Lands came up with.

I talked about hospitality and it reminded me when I was in High School, one of the scholars of this Country used to sarcastically ask, and that is Prof. P.L.O. Lumumba “have you ever been to New Thika Blue Post Hotel?” At High School I had not gone to Thika, I didn’t know that there was a very good hotel called New Thika Blue Post Hotel. It is through the courtesy of Kiambu County Government, as a Member of this County Assembly, they took us to New Thika Blue Post Hotel for a very nice lunch.

(Applause)

I want to really thank the hospitality of that County and I want to tell the Executive that whatever we pass let them be implemented. We need also to have various Counties visit us. I am happy that last time we had Vihiga County who was rated number one while we were rated number two. It was worth noting that when they visited this County Assembly, they said that they didn’t know why they were rated number one because they saw us as number one. I don’t want to labor much on this; I want to request my colleagues to pass this with a message that let us all follow up for the implementation of this good report. Thank you, Madam Temporary Speaker.

Hon. Omwende: I will look the odd one out if I don’t air my views also in this report. First

management system in Kiambu. I was very keen trying to peruse the report and this is where the Committee has not done a lot on this. I am not seeing where the challenges are because something that is good should also have its disadvantages.

So in terms of ranking, this is where I can rank the Committee lowly.

On issues of irrelevancy, the body, the context and even the conclusion, this is my view; in terms of irrelevancy maybe on the content, body and even the conclusion, I would say that may be the Committee has also stepped on another Committee's mandate. I know what the department of Tourism, Wildlife and Conservation and ICT, because in the Assembly we also have Committees Mandates and even the structure, how the Committee should operate. We have really concentrated on revenue collection and I know the reason why, because of the issues of ICT.

In terms of why I need to congratulate the Committee, this is the area of PABS, where we have a pool, where we have Safaricom, Airtel and other agencies. This is the area that I have been attracted so much because this is a pool you know how the communication systems that use the kind of and I am very happy that the County Government is the one that is taking the billing. I am very happy about that one.

Lastly, this report is a bit unique with other reports. Many reports that we have got in this Assembly, they don't relate to other Counties. If we talk about Siaya, what is Siaya doing that is unique to another County? I am very happy especially with recommendation one where we talk about Siaya County to take full advantage of ICT related to development. There is need for sufficient ICT Budget allocation at a minimum of 5%, I am very happy about that, we try to relate with other Counties. Thank you, Madam Temporary Speaker.

Hon. Temporary Speaker (Hon. Adida): Hon. Okwako!

Hon. Okwako: Thank you, very much Madam Temporary Speaker. I support the report. We talk about Kiambu and between Siaya and Kiambu there is a very big gap. We need to have a system and I want to send my message to our leaders, to think for Siaya and get factories because we have fish. There is a fish factory in Thika. We have cotton; we need to have a factory of cotton. We have sugarcane; we need a factory on the same. These factories will help us. Thank you.

(Applause)

Hon. Temporary Speaker (Hon. Adida): Zilpa Omondi!

Hon. Awino: Thank you, Temporary Madam Speaker; I support this Report. Madam Speaker, Members have raised issues with the word *revenue* because that is what has come up many times in this Report. I want to read a section of a letter here because it is the issue of revenue that was the genesis to this visit to Kiambu. It says that 'in this regard, CRA organized a County Revenue Automation Conference at the Great Rift Valley lodge, Naivasha on 14th to 17th July, 2015 with a theme; *ICT in counties, the game changer.*' The workshop was organized by the Commission of Revenue Allocation and they said that the ICT in Counties would be a game changer and who ever had attended this picked Kiambu because they had made a lot of progress.

I want to support this Report because it's talking about revenue leakages and they are saying that if you digitize, then you minimize these and the beauty of it all they are saying in a paragraph, the biggest benefits of the automation process is that the County Government has gotten visibility of all the revenue collected by the County. This was not the case

2016 SIAYA COUNTY ASSEMBLY DEBATES

previously and a lot of revenue was lost in the process and this is what I want to emphasize on. There is a record in the system on how much each revenue collector has collected since the system begun. If we adopt this then we can follow these revenue collectors and you can challenge them if they are not doing their work well then you can sack them because they are not doing their work.

Other than sealing the leakages, you can know whether somebody is serious in their work and also in the recommendation number 5, in order to maximize the collection of revenue within the County, the Executive needs to automate and digitize revenue management processes. I wish there could be a timeline to this recommendation because if it's just left open that way, it can even take 10 years before this is done. We need timelines for all these recommendations so that we can benefit from the fruits of automation of these services. I support.

Hon. Angul: Temporary Madam Speaker, I would like to refer as one of the Budget Committee Members. We are now in the fourth year and we started in 2013 and there was an ICT Centre that was supposed to be constructed in Ugunja for the collection of revenue and up to this moment we have not got any Report from the Executive. I think with this Report from Tourism, Wildlife Conservation and ICT, we can push the Executive to digitize this revenue collection. I think Siaya County will go far and I will also concur with Hon. Minami as a Public Accounts Committee member.

Surely those who are tasked with revenue collection, if you cross check with where they were previously working in the local Authority, for example, the ones that

are working in our Assembly like the Principal Finance Officer. If you saw the Report that was there in Bondo Town Council, they were doing well but those who are now employed in the revenue office at the moment were in other town councils of which I won't mention but if you see their Report which will be coming soon to the Assembly, you will judge whether we can take Siaya far or it will draw us back. Thank you very much.

Hon. Shaban: Thank you, Temporary Madam Speaker. Let me also air my voice on the Report on ICT as a Member of Tourism, Wildlife and ICT. Much has been said but I want to stress on a few issues. One is on PABX where calls can be made within the County by employees. Here there is accountability because you can only make the call to a person working within the County but where they are given airtime, it's hard to account for it since they are able to use it for personal gain. In teleconferencing, you will find that when you go to these offices and you want to see the CECM or CEO, you will be told that they are in a meeting and they will take time walking from the offices to meetings or they are being taken there by their drivers. Here fuel is consumed, or they are wasting time walking from one place to the conference room where they are to meet.

It has been noted that we have a law enforcement team that monitors the revenue collection. In Kiambu County, they have a disciplined force which means they know what they are doing and they are also strict so the people they are monitoring know very well if they are found in a mistake, action will be taken but our law enforcement team, when they go to the field, first of all they ask how much has been collected and they take their

lunch from the collection and this is the way they fleece money from the County Government.

Kiambu County is able to predict how much they are going to collect in the 2015/2016 financial year because they have the “Digitika” cards which people can buy and use monthly, quarterly and even half a year. So from the cards they can tell how much has been collected and they know a number of people using cards and this is guaranteed money that will be collected in the County as opposed to here where we don’t even have those cards, and we don’t give the collectors targets.

So, the collection per person is very erratic. Sometime back I read a Report in a certain market where there was zero collection. Now you wonder in that whole week there was nobody going to that market to sell their products and there was no action taken or this person was not questioned why they didn’t collect anything.

If we digitize our revenue collection you will find that we will easily follow the trend of collection per day, week, month and even annually. Lastly, accountability will be there in revenue collection and we will really have a record of those who are doing well. You have just been told that when we went to Kiambu, the people who are selling follow the revenue collectors so that they can pay and this encourages those who are collecting revenue to collect more. I urge Members to support.

Hon. Odinga: Thank you, Temporary Madam Speaker. I would request an amendment of recommendation number two which states that all ICT related budgetary requirements in all departments in the Executive should be domiciled in department of Tourism,

Wildlife conservation and ICT for easier coordination. We all know that we have to relate a budget with a cost centre. So, my opinion would be that we just budget, if it is say, for example, that we want to digitize on revenue collection and we put it under finance department but you put a rider that *this can only be done in consultation with the ICT department* because this is the department that will inform the Finance Department or any other department that these are the right materials and equipment to be used in implementing such a program.

By saying that all that should be mainly put under one ICT, assuming that Health department works to implement a program and then this program touching on ICT, for example it’s on control of staff or staff management, you can imagine this is supposed to be done in all departments within the County Government and then you find out that we have been charging a lot under ICT and yet we are also considering the fact that all these departments are at times given a ceiling which rarely cannot exceed. Since we want to go ICT and we want most of our budget to go on ICT development.

I feel like the cost centres should be to relevant departments and it should be added that this should be done with consultation with the IT department.

It is true that benchmarking mostly was on revenue collection but I have a feeling that there was also a program by the Kiambu County on capacity building. I can’t see a recommendation whether the ICT department or the Committee is recommending that we need to capacity build both members of staff and Members of the County Assembly. How I wish that would be one of the recommendations, since we all know and understand the ICT

and we also try to go paperless. Otherwise, I think the recommendations are worth noting and I support.

Hon. Okuku: Hon. Temporary Madam Speaker, I want to appreciate the Committee of which I am a member and I want to say that let us not shift the goal post and it's not the role of implementation Committee to implement whatever has been passed in this Assembly. It is the role of the Executive to implement and any Committee Standing or Sectoral do a follow up and not the role of implementation Committee.

I observed keenly the way the Senate debates, the Senator for Siaya County is the Chairperson of Implementation Committee in the Senate. He is not gagged that he must speak last the way other Hon. Members are gaging Hon. Oriaro. He can speak first, in the middle of the debate or last and I want to make that clear.

The County doesn't collect enough revenue because ICT has not been utilized as expected which is a necessity and not a luxury. The saying that *you cannot teach an old dog new tricks* is what is haunting this Assembly and the County Government because the people who are in charge of revenue collection are used to old methods of collecting revenue. I want to rest my case by requesting, Madam Temporary Speaker, that having observed the mood of the House, it is my prayer that you call the Mover to reply.

Hon. Temporary Speaker: Thank you, Hon. Members, I wish now to call upon the Mover to reply.

Hon. Abayo: Thank you, Temporary Madam Speaker, let me start by thanking the Members for the contributions that have been made. Allow me to share on a few areas that have been

raised on the Floor of this House. A Member did raise that this Committee may have gone beyond the mandate or beyond the visit. If anybody would want to make a reference to our recommendation and read the first Statement, under recommendations, it means that we have the focus of our mandate on our practical visit to Kiambu and a reference on the conference that took place in Naivasha. That is underscored in the first statement.

There are some recommendations that may have not come from Kiambu but we have used because this conference was on automation of revenue collection. We have also brought in some components which were recommendations of the conference and I think Hon. Oriaro did raise that and he did also mention that recommendation number one and six that are more relevant to the department or visit.

Recommendation number one come from Kiambu, it came from a conference so I just wanted to highlight that and also to remind Members; when we make a visit on a given concept, it's not just tied to your findings. We had a Report here, Madam Temporary Speaker, of Kwale and there was also issue of water and you look at the relevance!

It's also an opportunity that some of the findings we gave there we also have to do research. There was a hint for issues of budgeting for a data centre. It came out clear to me that some Members like Hon. Ndonji may have not been very keen as I went through the Report. I did even mention that the budget for data centre is already there.

There is Kshs.10million for establishment of data centre and the layout and trunking has already been done at IFAD, we are just waiting for a server and

do in the connection and the data centre is set, he did not get that. I agree I may have mentioned 2010 but I corrected it immediately, he was still repeating it.

Hon. Andiego did talk about the need to periodically come up and get Reports, when we have mentioned about this Committee, I have done a Motion as regards position in the Ad hoc Committee, if this Assembly will pass that Motion, it will be mandatory that they will be Reporting to this Assembly depending on what they choose either monthly or quarterly so that the House can easily monitor.

The bit of pagination has been raised and I did see this yesterday, I knew copies had been produced but I didn't know new ones were going to be produced. We apologize for not numbering the pages. Issue of timeline for this digitization has been raised, the challenge is; a pilot was done but in the current budget there is no specific money for digitization but there are components of it in the area of Health and lands. We will therefore, if put a timeline it will be in our next budget.

Lastly, the bit that has been raised on domicile in related ICT, We have seen Kiambu put Kshs.450 Million, if this County went ahead to say in their physical strategy proposal that we want this County to go digital riding on the framework, infrastructure, we have the fibre optic and we are doing connectivity. Fibre optic is already in the Sub Counties, if we were going to go that direction then you would say you'd commit us a given amount of money to digitize and that won't require departments.

Secondly, the programs to digitize human resource, data on lands and health

care, that we are able to check where drugs are being taken and issued. I want to thank the Members and urge them that they adopt. My brother, Hon. Odinga has talked about capacity building. I think he might have come in later after I had talked about capacity building and that there was an amendment as that is a core area of recommendation and we are saying that if this is implemented, Members can start doing their degree, diploma in key areas like County Governance that some Members of this House already had taken.

Thank you, I urge Members to pass this Motion with the recommendations that have been highlighted. There were issues of amendments, the procedure of making amendments are so clear.

We gave out this Report and Members had time to interrogate it and if you had any recommendation in terms of amendments you would have brought them forward and they would have been part of this Report. At any given time, nobody is denied a chance to make the amendments. The Amendments that I have made some of them came from Members. Thank you.

(Question put and agreed to with amendments)

MOTION

ADJOURNMENT

Hon. Temporary Speaker: Hon. Members, let us be up standing for adjournment.

Since we have transacted our business as per the morning session, this House stands adjourned until today Wednesday, 3rd August, at 2.30 p.m.

The House rose at 11.24 a.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 3RD AUGUST, 2016

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

[The Temporary Speaker (Hon. Abayo) in the Chair]

PRAYER

NOTICE OF MOTION

THE SIAYA COUNTY PUBLIC NUISANCE
BILL, 2015
(BILL NO. 10 OF 2015)

(Second Reading)

Hon. Were: Mr. Temporary Speaker, Sir, I rise to give notice of the following Motion:-

THAT, The Siaya County Public Nuisance Bill, 2015 (Bill No. 10 of 2015) be read a second time.

THE SIAYA COUNTY CARRIAGE OF
FOOD BILL, 2015 (BILL NO. 05 OF
2015)

(Second Reading)

Hon. Were: Mr. Temporary Speaker, Sir, in the same breath, I also wish to give notice of the following Motion:-

THAT, The Siaya County Carriage of Food Bill, 2015 (Bill No.05 of 2015) be read a second time.

The Temporary Speaker (Hon. Abayo): Next Order!

BILL

SIAYA COUNTY PUBLIC NUISANCE
BILL, 2015
(COUNTY ASSEMBLY BILL NO. 10
OF 2015)

Second Reading

Hon. Were: Mr. Temporary

Speaker, Sir, I wish to move that:-

The Siaya County Public Nuisance Bill, 2015 (Bill No. 10 of 2015) be read a second time.

EXECUTIVE SUMMARY

Mr. Temporary Speaker, Sir, on behalf of members of the Committee on Health Services, I am pleased to present the report on the Siaya Public Nuisance Bill, 2015 to this Hon. House.

On 28th October, 2015, The Siaya County Public Nuisance Bill, 2015 was read the first time on the Floor of the House and subsequently committed to the Committee on Health Services.

Mr. Temporary Speaker, Sir, the Committee held a total of ten meetings, consulted the relevant stakeholders, held public participation on the Bill on 6th October, 2015 and on 9th October, 2015. Thereafter, the Committee proceeded for report writing in Kisumu from 22nd November, 2015 to 25th November, 2015.

Committee observation

1. A key observation of the Committee was that the Siaya County Public Nuisance Bill, 2015 was shallow and left out a number of crucial issues including its administration and enforcement.

Committee's Mandate

The Committee on Health Services is one of the Sectoral Committees established pursuant to provisions of *Standing Order No. 192*, whose mandate is

to deliberate on all matters related to County health services, including County health facilities and pharmacies, ambulance services, promotion of primary health care, licensing and control of undertakings that sell food to the public, cemeteries, funeral parlours and crematoria and refuse removal, refuse dumps and solid waste disposal.

Acknowledgement

Mr. Temporary Speaker, Sir, I wish to record the Committee's gratitude to the House for having entrusted us with the execution of the important duty of contributing to the efforts of streamlining the governance of the health sector in Siaya County. The Committee is thankful to the entire membership for their dedication and commitment during the deliberations that made this report a reality.

The Committee thanks the office of the department of health, office of the County Assembly Clerk for related facilitations, Ekin and associates advocates for the legal scrutiny of the Bill and our Clerk assistants for ably coordinating the activities that led to the production of this report.

Mr. Temporary Speaker, Sir, it is now my pleasant duty, on behalf of the Committee on Health Services to present this report for immediate consideration and adoption by the House. The committee prays that this Hon. House adopts the recommendations proposed in this report. Committee Recommendations.

Amendment 1

Arrangement of sections to be replaced by 'Arrangement of clauses'

PART 1

Preliminary provisions. it names the proposed Act, defines the words and

expressions used in the Bill and states the objective of the proposed Act.

PART II

Entails the administration of the Act

PART III Covers sanitation and housing

PART IV Deals with protection of food stuffs

PART V Public water supplies, meat, milk and other articles of food

PART VI Prevention and destruction of mosquitoes

PART VII Cemeteries

PART VIII General

PART IX Miscellaneous provisions

Amendment 2

AN ACT of the Siaya County Assembly to give effect to the Fourth Schedule part two paragraph three of the Constitution of Kenya, 2010; to regulate noise pollution and other public nuisances; to provide for the prevention and control of litter pollution and for connected purposes.

Be replaced by

A Bill for an Act of the Siaya County Assembly to give effect for the fourth schedule Part II paragraph III of the constitution of Kenya, 2010 to regulate, public nuisance, air pollution, cemeteries, crematoria, solid and liquid waste, public entertainment and amenities.

Amendment 3

"mobile outlet" means any mobile facility used for retail sale of foods, drinks and related products on land from a food truck, van, cart or other similar vehicle;

"Public street" means street maintainable by the County;

"structure" includes a machine, pump, post billboard or other object capable of causing an obstruction to a passenger or a vehicle in a street;

To be deleted

Under Section 2;

2016 SIAYA COUNTY ASSEMBLY DEBATES

- i) The letter ‘C’ in the word ‘County’ and ‘County Secretary’ be in capital
- ii) “medical officer of health” “m, o and h” should be in capital

The following definitions to be part of the Bill

Medical officer of Health

- (a) The Director of Medical Services; and County Director of Public Health
- (b) Any duly appointed medical officer of health, a public health officer and
- (c) In relation to any other area a medical officer of health or public health officer appointed by the County Executive Committee Member for Health (CEC Health) for that area;

“Medical surveillance” means the keeping of a person under medical supervision; persons under such surveillance may be required by the medical officer of health or any duly authorized officer to remain within a specified area or to attend for medical examination at specified places and times;

“The County Executive Committee Member for Health” means the County Executive Committee Member for Health for the time being responsible for matters relating to Health;

“Occupier” includes any person in actual occupation of land or premises without regard to the title under which he occupies and in case of premises subdivided and let to lodgers or various tenants the person receiving the rent payable by the lodgers or tenants whether on his own account or as an agent for any person entitled thereto or interested therein;

“Offensive trade” includes the trades of blood-boiler, bone-boiler, fellmonger, soap-boiler, tallow-smelter and tripe-boiler, and any other noxious or

offensive trade, business or manufacture whatsoever;

“This Act” includes any rules or order made thereunder;

“Owner”, as regards immovable property, includes any person, other than the County Government, receiving the rent or profits of any lands or premises from any tenant or occupier thereof or who would receive such rent or profits if such land or premises were let whether on his own account or as agent for any person, other than the County Government, entitled thereto or interested therein;

The term includes any lessee or licensee from the Government and any superintendent, overseer or manager of such lessee or licensee residing on the holding;

“Parent” means the father and the mother of a child, whether legitimate or not;

“Premises” includes any building or tent together with the land on which the same is situated and the adjoining land used in connection therewith, and includes any vehicle, conveyance or vessel;

“Public building” means a building used or constructed or adapted to be used either ordinarily or occasionally as a place of public worship or as a hospital, college, school, theatre, public hall or as a public place of assembly for persons admitted by ticket or otherwise, or used or adapted to be used for any other public purpose;

“Public latrine” means any latrine to which the public are admitted on payment or otherwise;

“Rules” includes regulations and by-laws made or deemed to be made under this Act;

“Slaughterhouse” means any premises set aside for the purpose of the

slaughter of animals for human consumption;

“Stock” means all domesticated animals of which the flesh or milk is used for human consumption;

“Street” means any highway, road or sanitary lane, or strip of land reserved for a highway, road or sanitary lane, and includes any bridge, footway, square, court, alley or passage whether a thoroughfare or not, or a part of one;

“Trade premises” means any premises (other than a factory) used or intended to be used for carrying on any trade or business;

“Veranda” includes any stage, platform or portico projecting from the main wall of any building;

“Veterinary officer” means a veterinary surgeon or any other duly authorised person by the CEC in charge of Veterinary services in the employment of the County Government;

“Workshop” means any building or part of a building in which manual labour is exercised for purposes of trade.

“Adult” means a person of eighteen years of age or over;

“Approved” and **“prescribed”** means respectively approved or prescribed by the CEC or the board or by the appointed officers or by the regulations framed under this Act as the case may be;

“Basement” means any cellar, vault or underground room;

“Board” means the Central Board of Health constituted under the rules of this Act

“Building” includes any structure whatsoever for whatever purpose used;

“Burial” means burial in earth, interment or any other form of sepulture, or the cremation or any other mode of disposal of

a dead body, and **“buried”** has a corresponding meaning;

“Child” means a person less than eighteen years of age;

“Commercial area” means any area in the county, township, or Sub County which the CEC may, by order, define;

“Dairy” means any farmhouse, cow-shed, milk-shop, milk-store or other place from which milk is supplied on, or for, sale, or in which milk is kept or used for purposes of sale or in which only surplus milk is manufactured into butter or cheese, or in which vessels used for the sale of milk are kept, but does not include premises from which milk is not supplied otherwise than in receptacles which are properly closed and sealed on delivery to the premises and which remain properly closed and sealed during the whole time from their delivery to the premises until their removal by the purchaser;

“Dairyman” includes any cow-keeper, purveyor of milk or occupier of a dairy, and, in cases where a dairy is owned by a corporation or company, the secretary or other person actually managing the dairy;

“Drain” means any drain used for the drainage of one building only, or of premises within the same curtilage and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed;

“Drainage authority” means the Ministry of Works or any other authority that the Minister may appoint for any particular area;

“Dwelling” means any house, room, shed, hut, cave, tent, vehicle, vessel or boat or any other structure or place

whatsoever, any portion whereof is used by any human being for sleeping or in which any human being dwells;

“Factory” means any building or part of a building in which machinery is worked by steam, water, electricity or other mechanical power, for the purposes of trade;

“Food” means any article used for food or drink other than drugs or water, and any article intended to enter into or be used in the preparation of such food, and flavouring matters and condiments;

“Guardian” means any person having by reason of the death, illness, absence or inability of the parent or any other cause the custody of a child;

“Health authority”, in relation to the area of the County, means the sub County Health Authority of the County concerned, and, in relation to any other area, means the County Executive Committee Member for Health;

“Infected” means suffering from, or in the incubation stage of, or contaminated with the infection of, any infectious or communicable disease;

“Infectious disease” means any disease (not including any venereal disease except gonorrhoeal ophthalmia) which can be communicated directly or indirectly by any person suffering therefrom to any other person;

“Isolation” means the segregation and the separation from and interdiction of communication with others, of persons who are or are suspected of being infected;

“isolated” has a corresponding meaning;

“Keeper of a lodging-house” means any person licensed to keep a lodging-house;

“Land” includes any right over or in respect of immovable property;

“Latrine” includes privy, urinal, earth-closet and water-closet;

“Lodging-house” means a building or part of a house including the veranda thereof, if any, which is let or sublet in lodgings or otherwise, either by storeys, by flats, by rooms or by portions of rooms;

“Magistrate” means any magistrate empowered to hold a subordinate court of the first, second or third class;

“Meat inspector” means any person employed by a health authority to inspect any meat and includes veterinary officers appointed to act as such;

Amendment 4

Section 3

- a) The letter “c” in the word “county” should be in capital
- b) Insert the conjunction “and” after the semi-colon at the end of the sentence

Amendment 5

General nuisances be deleted, replaced by sanitation and housing then moved to part 3

Part II to have administration of the Act as follows

PART 2-ADMINISTRATION

4(1) ESTABLISHMENT OF THE OFFICE OF THE COUNTY DIRECTOR PUBLIC HEALTH

There shall be established an office known as The County Director Public Health

Within the Siaya County Public Service

Duties and responsibilities

The above officer will be answerable to the CEC Member Health Services for the administration of all the activities in the Public Health function

Ensuring Compliance to County, National. international health regulations and rules including the following legislations

2016 SIAYA COUNTY ASSEMBLY DEBATES

Siaya County Food, Drugs and Chemical Substances Act,

2015 The Food Drugs and Chemical Substances Act, CAP 254,

The Public Health Act (CAP 242),

The Siaya County Public Nuisance Act, 2015

Tobacco Control Act, 2007

Alcoholic Drinks Act, 2007

Biosafety Act 2009

Malaria prevention and control Act, Cap 246

Meat Control Act, CAP 356 and any other relevant legislation on public health.

Formulating, interpreting, implementing and reviewing of Public Health policies in the county, guidelines, standards and procedures.

Planning and ensuring implementation of promotive and preventive health programs

Monitoring, evaluation and liaising with relevant stakeholders in the implementation of public health projects and programs

Providing technical advice on promotive and preventive health

Overseeing the development and management of public and private mortuaries, cemeteries and crematoria

Provide leadership in research on public health, trends and other emerging issues

Mobilizing resources and fostering collaboration and partnerships with inter-county, bilateral and multilateral agencies in support of public health programs.

Inculcating innovation and modern technology in the provision of public health services

Representing the CEC Member for Health in statutory, regulatory, research, standards and other coordinating bodies

Developing strategic and work plans planning and budgeting for Public health operations in the County

Overseeing capacity building and performance management in the department.

Requirements for Appointment

For Appointment to this grade, an officer must have:-

Served in the grade of deputy director, public health for a minimum period of three years

Post graduate diploma in any of the following disciplines:- food science and inspection, solid waste management, occupational health and safety, epidemiology, health promotion and education or equivalent qualifications from a recognized institution.

OR

Bachelor Degree in either environmental health or public health or equivalent qualification from a recognized institution

Masters Degree in any of the following:

Environmental Health, Public Health, Epidemiology, Food safety and Quality, Food services and Technology, community health, occupational health and safety, Health promotion and education, solid waste management or Disaster

management from a recognized institution

Certificate in strategic leadership development program lasting not less than six weeks from a recognized institution.

Certificate in basic computer programs from a recognized institutions

Demonstrated high degree of professional competence and administrative capability required for effective planning, direction control and coordination of the public health function and

A thorough understanding of National and County goals, Policies and objectives and ability to relate them to the Public Health function and aspirations of vision 2030.

**(2) ESTABLISHMENT OF THE
OFFICE OF THE COUNTY
DIRECTOR MEDICAL SERVICES**

There shall be established an office known as The County Director of Medical Services within the Siaya County Public Service

Duties and responsibilities

The DMS shall be answerable to the CEC Member for Health Services for organization and coordination of Health Services at County level.

The above officer shall be responsible for Planning, coordination, direction and development of Health Services including curative and rehabilitative services

Formulation of policy for operation and development of Health Services
Management of resources for the operations of medical services

**Requirements for Appointment into the
Position of Director Medical Services**

Professionally qualified individual with a wide professional experience, competence and capability

Has served as a deputy director for a minimum period of three years in his area of specialty

Has obtained relevant and approved specialization/qualification in his field from a recognized University.

Specialist responsibility will entail provision of health services in various disciplines in medical surgery, dentistry and other recognized specialties at the County level.

Planning of health services at County level, administer and manage specified sections, Provide professional guidance and training to doctors, dentists and health personnel working under him/her to ensure maintenance of highest standards of health care in the hospitals.

Central Board of Health

(3) There shall be established a Central Board of Health (hereinafter referred to as the board), having its seat at Siaya County Headquarters, which shall consist of the County Director of Medical Services , (who shall be chairman), County Director of Public Health, or such person as may be appointed by the CEC for Health to perform the duties of a public health officer, secretary, and such other person or persons not exceeding six (three of whom shall be public health practitioners) as are appointed from time to time by the CEC for Health.

(4) In the absence of the County Director of Medical Services, the County Director of Public Health shall chair the meeting.

5. Appointments to be gazetted

The names of all members appointed to the board shall be forthwith notified in the *Gazette* and any number of the *Gazette* containing a notice of any such appointment shall be deemed sufficient evidence thereof for all purposes.

6. Filling vacancies

The CEC for Health shall, as soon as possible, fill up vacancies occurring in the board, but the board shall continue to exercise its powers as long as there shall remain on the board at least five members of whom the Director of Public Health Services is one.

7. Substitute members

If any member of the board is at any time prevented by absence or other cause from acting, the CEC for Health may appoint some other person to replace such member until he returns or is able to resume his functions.

8. Rules as to meetings of board, etc.

The CEC for Health may make rules as to the convening and holding meetings of the board, the quorum thereof, the procedure thereat, allowances payable to members

thereof and the circumstances in which any member shall vacate his membership.

A. Committees

The board may appoint committees, whether of its own members or otherwise, to carry out general or specific functions as may be specified by the board and may delegate to any such committee such of its powers as the board may deem appropriate.

B. Establishment of sub county health management boards

(1) There shall be established a sub county health management board in each sub county which shall be charged with responsibility of overseeing the running of County Government health institutions in that sub county.

(2) The CEC for Health may make rules as to the composition of the sub county health management boards, the convening and holding of meetings of the boards, the procedure thereat, allowances payable to members thereof and the circumstances in which any member shall vacate his membership.

9. Functions of board

The functions of the board shall be to advise the CEC for Health upon all matters affecting the public health, and particularly upon all matters mentioned in subsection (2) of section 10.

10. Appointment and duties of officers

(1) There shall from time to time be appointed a County Director of Medical Services, a Deputy County Director of Medical Services, County Director of Public Health Services, Deputy County Director of Public Health Services, medical officers of health, medical officers, pathologists, public health officers, port health officers and such other officers as may be deemed necessary.

(2) The CEC for Health, in consultation with the board may prescribe the qualifications to be held by, the mode and terms of engagement of, and the duties to be performed by, all or any of the officers and inspectors referred to in subsection (1).

(3) Every public health officer and every medical officer of health appointed under this section shall be a medical practitioner.

(4) The officers appointed under this section shall carry out such duties in relation to public health as the County Director of Health Services may respectively assign to them.

11. Functions of Health Department

(1) There shall be a department, to be known as the Public Health Department, which shall be under the control of the County Director of Public Health.

(2) The functions of the Public Health Department shall be, subject to the provisions of this Act, to prevent and guard against the introduction of infectious disease into Siaya County from outside; to promote the public health and the prevention, limitation or suppression of infectious, communicable or preventable disease within the county; to advise and direct the county government in regard to matters affecting the public health; to promote or carry out researches and investigations in connection with the prevention or treatment of human diseases; to prepare and publish reports and statistical or other information relative to the public health; and generally to carry out in accordance with directions the powers and duties in relation to the public health conferred or imposed by this Act.

(3) It shall be the duty of the department to obtain and publish periodically such information regarding infectious disease and other health matter in Siaya County

and such procurable information regarding epidemic disease in territories adjacent to Siaya County or in other counties, as the interests of the public health may require.

12. Power to direct inquiries

The CEC for Health may, on the advice of the board or of the Public Health Department, cause to be made such inquiries as he may see fit in relation to any matters concerning the public health in any place.

13. Powers of persons directed to make inquiries

When an inquiry is directed to be made by the CEC for Health, the person directed to make the same shall have free access to all books, plans, maps, documents and other things relevant to the inquiry, and shall have in relation to witnesses and their examination and the production of documents similar powers to those conferred upon magistrates by the Criminal Procedure Code (Cap. 75), and may enter and inspect any building, premises or place the entry or inspection whereof appears to him requisite for the purpose of such inquiry.

14. General duties of health authorities

It shall be the duty of health authority to take all lawful, necessary and, under its special circumstances, reasonably practicable measures for preventing the occurrence or dealing with any outbreak or prevalence of any infectious, communicable or preventable disease, to safeguard and promote the public health and to exercise the powers and perform the duties in respect of the public health conferred or imposed on it by this Act or by any other law.

15. Proceedings on complaint to board of health

(1) Whenever complaint is made to the board that the public health in any locality

is endangered by the failure or refusal on the part of any county government department to exercise its powers or perform the duties devolving upon it under this Act or any other Act which it is its duty to enforce, the CEC for Health on the recommendation of the board, if satisfied after due inquiry that the county government respective department has been guilty of the alleged default, may make an order directing the respective county government department to perform its duty in the matter of such complaint, and prescribing a time for such performance.

(2) If the duty is not performed within the time prescribed in the order, the CEC for Health may appoint some person to perform the duty, and shall by order direct that the expense of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, shall be paid by the respective county government department in default, and any order made for the payment of such expenses and costs may be recovered in a court of competent jurisdiction.

(3) Any person appointed under this section to perform the duty of a defaulting respective county government department shall, in the performance and for the purposes of that duty, have all the powers of such respective county government department other than the powers of levying rates vested in any respective county government department pursuant to the provision of any Act in that behalf; and the CEC for Health may from time to time by order change any person so appointed.

16. CEC for health to be consulted over county government public health by-laws

Any CEC of Siaya county department shall, before approving any by-law made by county government affecting public health, obtain the agreement of the CEC for Health.

17. Provisions of Act in relation to other Acts

(1) Except as is specially provided in this Act, the provisions of this Act shall be deemed to be in addition to and not in substitution for any provisions of any other Act which are not in conflict or inconsistent with this Act.

(2) If the provisions of any earlier Act are in conflict or inconsistent with this Act, the provisions of this Act shall in addition to and not in derogation.

Amendment 6

Part III-Roads and streets to be deleted and replaced by

PART III – SANITATION AND HOUSING

18. Nuisances prohibited

No person shall cause a nuisance or shall suffer to exist on any land or premises owned or occupied by him or of which he is in charge any nuisance or other condition liable to be injurious or dangerous to health.

19. County Government to maintain cleanliness and prevent nuisances

It shall be the duty of health authority to take all lawful, necessary and reasonably practicable measures for maintaining its jurisdiction at all times in clean and sanitary condition, and for preventing the occurrence therein of, or for remedying or causing to be remedied, any nuisance or condition liable to be injurious or dangerous to health, and to take

proceedings at law against any person causing or responsible for the continuance of any such nuisance or condition.

20. Health authorities to prevent or remedy danger to health from unsuitable dwellings

It shall be the duty of health authority to take all lawful, necessary and reasonably practicable measures for preventing or causing to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from the erection or occupation of unhealthy dwellings or premises, or the erection of dwellings or premises on unhealthy sites or on sites of insufficient extent, or from overcrowding, or from the construction, condition or manner of use of any factory or trade premises, and to take proceedings against any person causing or responsible for the continuance of any such condition.

21. What constitutes nuisance

(1) The following shall be deemed to be nuisances liable to be dealt with in the manner provided in this Part—

(a) Any vessel, and any railway carriage or other conveyance, in such a state or condition as to be injurious or dangerous to health;

(b) Any dwelling or premises or part thereof which is or are of such construction or in such a state or so situated or so dirty or so verminous as to be, in the opinion of the public health officer, injurious or dangerous to health, or which is or are liable to favour the spread of any infectious disease;

(c) any street, road or any part thereof, any stream, pool, ditch, gutter, watercourse, sink, water-tank, cistern, water-closet, earth-closet, privy, urinal, cesspool, soak-away pit, septic tank, cesspit, soil-pipe, waste-pipe, drain, sewer, garbage receptacle, dust-bin, dung-pit, refuse-pit,

2016 SIAYA COUNTY ASSEMBLY DEBATES

slop-tank, ash-pit or manure heap so foul or in such a state or so situated or constructed as in the opinion of the public health officer to be offensive or to be injurious or dangerous to health;

(d) Any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by man for drinking or domestic purposes or in connection with any dairy or milk shop, or in connection with the manufacture or preparation of any article of food intended for human consumption, which is in the opinion of the public health officer polluted or otherwise liable to render any such water injurious or dangerous to health;

(e) Any noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or into any nullah or watercourse, irrigation channel or bed thereof not approved for the reception of such discharge;

(f) any stable, cow-shed or other building or premises used for keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or which is injurious or dangerous to health;

(g) any animal so kept as to be a nuisance or injurious to health;

(h) any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is injurious or dangerous to health;

(i) any accumulation of stones, timber or other material if such in the opinion of the public health officer is likely to harbour rats or other vermin;

(j) any premises in such a state or condition and any building so constructed as to be likely to harbour rats;

(k) any dwelling or premises which is so overcrowded as to be injurious or dangerous to the health of the inmates, or is dilapidated or defective in lighting or ventilation, or is not provided with or is so situated that it cannot be provided with sanitary accommodation to the satisfaction of the public health officer;

(l) any public or other building which is so situated, constructed, used or kept as to be unsafe, or injurious or dangerous to health;

(m) any occupied dwelling for which such a proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain;

(n) any factory or trade premises not kept in a clean state and free from offensive smells arising from any drain, privy, water-closet, earth closet or urinal, or not ventilated so as to destroy or render harmless and inoffensive as far as

practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or

ventilated as to be injurious or dangerous to the health of those employed therein;

(o) any factory or trade premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health;

(p) any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infectious communicable or preventable disease or injury or danger to health;

(q) any chimney sending forth smoke in such quantity or in such manner as to be offensive or injurious or dangerous to health;

(r) any cemetery, burial-place or place of sepulture so situated or so crowded or otherwise so conducted as to be offensive or injurious or dangerous to health;

(s) any act, omission or thing which is, or may be, dangerous to life, or injurious to health.

(2) The author of a nuisance means the person by whose act, default or sufferance nuisance is caused, exists or is continued, whether he is the owner or occupier or both owner and occupier or any other person.

22. Notice to remove nuisance

The county director of public health, if satisfied of the existence of a nuisance, shall serve a notice on the author of the nuisance or, if he cannot be found, on the occupier or owner of the dwelling or premises on which the nuisance arises or continues, requiring him to remove it within the time specified in the notice, and to execute such work and do such things as may be necessary for that purpose, and, if the county director public health think it desirable (but not otherwise), specifying any work to be executed to prevent a recurrence of the said nuisance:

Provided that—

(i) where the nuisance arises from any want or defect of a structural character, or where the dwelling or premises are unoccupied, the notice shall be served on the owner;

(ii) where the author of the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier or owner of the dwelling or premises, the county public health officer shall remove the same and may do what is necessary to prevent the recurrence thereof.

23. Procedure if owner fails to comply with notice

(1) If the person on whom a notice to remove a nuisance has been served as aforesaid fails to comply with any of the requirements thereof within the time specified, the public health officer shall cause a complaint relating to such nuisance to be made before a magistrate, and such magistrate shall thereupon issue a summons requiring the person on whom the notice was served to appear before his court.

(2) If the court is satisfied that the alleged nuisance exists, the court shall make an order on the author thereof, or the occupier or owner of the dwelling or premises, as the case may be, requiring him to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within a time specified in the order and to do any works necessary for that purpose.

(3) The court may by such order impose a fine not exceeding two hundred thousand shillings on the person on whom the order is made, and may also give directions as to the payment of all costs incurred up to the time of the hearing or making of the order for the removal of the nuisance.

(4) If the court is satisfied that the nuisance, although removed since the service of the notice, was not removed within the time specified in such notice, the court may impose a fine not exceeding ten thousand shillings on the person on whom such notice was served, and may, in addition to or in substitution for such fine, order such person to pay all costs incurred up to the time of the hearing of the case.

(5) If the nuisance, although removed since the service of the notice, in the opinion of the public health officer is likely to recur on the same premises, the public health officer shall cause a complaint relating to such nuisance to be made before a magistrate, and the

magistrate shall thereupon issue a summons requiring the person on whom the notice was served to appear before him.

(6) If the court is satisfied that the alleged nuisance, although removed, is likely to recur on the same premises, the court shall make an order on the author thereof or the occupier or owner of the dwelling or premises, as the case may be, requiring him to do any specified work necessary to prevent the recurrence of the nuisance and prohibiting its recurrence.

(7) In the event of the person on whom such order as is specified in subsections (5) and (6) not complying with the order within a reasonable time, the public health officer shall again cause a complaint to be made to a magistrate, who shall thereupon issue a summons requiring such person to appear before him, and on proof that the order has not been complied with may impose a fine not less than one hundred thousand shillings and not exceeding two hundred and fifty thousand shillings, and may also give directions as to the payment of all costs up to the time of the hearing.

(8) Before making any order, the court may, if it thinks fit, adjourn the hearing or further hearing of the summons until an inspection, investigation or analysis in respect of the nuisance alleged has been made by some competent person.

(9) Where the nuisance proved to exist is such as to render a dwelling unfit, in the judgment of the court, for human habitation, the court may issue a closing order prohibiting the use thereof as a dwelling until in its judgment the dwelling is fit for that purpose; and may further order that no rent shall be due or payable by or on behalf of the occupier of that dwelling in respect of the period in which the closing order exists; and on the court

being satisfied that it has been rendered fit for use as a dwelling the court may terminate the closing order and by a further order declare the dwelling habitable, and from the date thereof such dwelling may be let or inhabited.

(10) Notwithstanding a closing order, further proceedings may be taken in accordance with this section in respect of the same dwelling in the event of any nuisance occurring or of the dwelling being again found to be unfit for human habitation.

(11) Where the nuisance arises from obstruction caused by vehicles on the streets or any part thereof, the impounding charges on schedule one shall apply.

24. Penalty respecting nuisances

(1) Any person who fails to obey an order to comply with the requirements of the public health officer or otherwise to remove the nuisance shall, unless he satisfies the court that he has used all diligence to carry out such order, be guilty of an offence and liable to a fine not exceeding one thousand three hundred shillings for every day during which the default continues; and any person wilfully acting in contravention of a closing order issued under section 22 of this Act, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings for every day during which the contravention continues.

(2) The public health officer, may in such case enter the premises to which any such order relates, and remove the nuisance and do whatever may be necessary in the execution of such order, and recover in any competent court the expenses incurred from the person on whom the order is made.

25. Court may order health authority to execute works in certain cases

Whenever it appears to the satisfaction of the court that the person by whose act or default the nuisance arises, or that the owner or occupier of the premises, is not known or cannot be found, the court may at once order the health authority to execute the works thereby directed, and the cost of executing the same shall be a charge on the property on which the said nuisance exists.

26. Examination of premises

The health authority or any of its officers, or the public health officer, or, on the order of a magistrate, any police officer of or above the rank of Inspector, may enter any building or premises for the purpose of examining as to the existence of any nuisance therein at all reasonable times; and the health authority or any of its officers may if necessary open up the ground of such premises and cause the drains to be tested, or such other work to be done as may be necessary for the effectual examination of the said premises: Provided that if no nuisance is found to exist the authority shall restore the premises at its own expense.

27. Demolition of unfit dwellings

(1) Where any such nuisance as is mentioned in section 21 is proved to exist with respect to a dwelling, and the court is satisfied that such dwelling is so dilapidated or so defectively constructed or so situated that repairs to or alterations of the same are not likely to remove the nuisance and make such dwelling fit for human habitation, the court may order the owner thereof to commence to demolish the dwelling and any other structures on the premises on or before a specified day, being at least one month from the date of issuing the order, and to complete the

demolition and to remove the materials which comprised the same from the site before another specified day.

(2) The court shall give notice to the occupier of a dwelling in respect of which such an order has been issued requiring him to move there from within a time to be specified in such notice, and if any person fails to comply with such notice or enter the dwelling or premises after the date fixed except for the purpose of demolition he shall be guilty of an offence.

(3) If any person fails to comply with such an order for demolition, he shall be guilty of an offence and liable to pay the daily fine provided in section 23, and the health authority may cause the dwelling and any other structures on the premises to be demolished, and may recover from the owner the expense incurred in doing so after deducting the net proceeds of the sale of the materials, which the health authority may sell by auction.

(4) No compensation shall be paid by the health authority to the owner or occupier of any dwelling or other structure in respect of the demolition thereof as aforesaid, and from the date of the demolition order no rent shall be due or payable by or on behalf of the occupier in respect of such dwelling or structure.

(5) In this section, “**the court**” means a subordinate court of the first class.

28. Duty of department as to overcrowding, etc.

It shall be the duty of the Medical and Public Health Departments—

- (a) to collect, investigate and consider and publish the facts as to any overcrowding or bad or insufficient housing in the various sub counties of Siaya County;

(b) to inquire into the best methods of dealing with any overcrowding or housing so ascertained to exist;

(c) to make or publish such recommendations as may seem necessary in respect of the result of any such investigation or inquiry.

29. Rules under Part

The CEC for Health, on the advice of the board, may make rules and may confer powers and impose duties in connection with the carrying out and enforcement thereof on county government ,

magistrates, owners and others as to—

(a) the inspection of land, dwellings, buildings, factories and trade premises, and for securing the keeping of the same clean and free from nuisance and so as not to endanger the health of the inmates or the public health;

(b) the construction of buildings, the provision of proper lighting and ventilation and the prevention of over-crowding;

(c) the periodical cleansing and whitewashing or other treatment of dwellings, and the cleansing of land attached thereto, and the removal of rubbish or re-use therefrom;

(d) the drainage of land, streets or premises, the disposal of offensive liquids and the removal and disposal of rubbish, refuse, manure and waste matters;

(e) the standard or standards or purity of any liquid which, after treatment in any purification works, may be discharged therefrom as effluent;

(f) the keeping of animals or birds and the construction, cleanliness and drainage of places where animals or birds are kept;

(g) the establishment and carrying on of factories or trade premises which are liable to cause offensive smells or effluvia, or to discharge liquid or other material liable to cause such smells or effluvia, or to pollute

streams, or are otherwise liable to be a nuisance or injurious or dangerous to health, and for prohibiting the establishment or carrying on of such factories or trade premises in unsuitable localities or so as to be a nuisance or injurious or dangerous to health;

(h) the subdivision and general lay-out of land intended to be used as building sites, the level construction, number, direction and the width of streets and thoroughfares, the limitation of the number of dwellings or other buildings to be erected on such land, the proportion of any building site which may be built upon and the establishment of zones within which different limitations shall apply and of zones within which may be prohibited the establishment or conduct of occupations or trades likely to cause nuisance or annoyance to persons residing in the neighbourhood;

(i) the inspection of the areas of the sub county by the health authority with a view to ascertain whether the lands and buildings thereon are in a state to be injurious or dangerous to health, and the preparation, keeping and publication of such records as may be required.

30 A. By-laws as to buildings and sanitation

(1) The CEC for Health for the time being responsible for county government ,with the agreement of the board, may and shall if so required make by-laws for all or any of the following matters—

(a) as regards buildings—

(i) For controlling the construction of buildings, and the materials to be used in the construction of buildings;

(ii) For controlling the space about buildings, the lighting and ventilation of buildings and the dimensions of rooms intended for human habitation;

(iii) For controlling the height of buildings, and the height of chimneys (not being separate buildings) above the roof of the buildings of which they form part;

(iv) For prohibiting the erection or use of temporary or movable buildings, whether standing on wheels or otherwise, and for prohibiting or restricting the use of tents or similar buildings for business or dwelling purposes;

(v) For requiring and regulating adequate provision for the escape of the occupants of any building in the event of an outbreak of fire;

(vi) For preventing the occupation of a new or altered building until a certificate of the fitness thereof for occupation or habitation has been issued by such local authority;

(vii) To compel employers to provide housing for their employees;

(viii) To compel owners to repair or demolish unsafe dangerous or dilapidated buildings;

(b) as regards works and fittings—

(i) for regulating sanitary conveniences in connexion with buildings, the drainage of buildings (including the means for conveying refuse water and water from roofs and from yards appurtenant to buildings), the cleansing, drainage and paving of courts, yards and open spaces used in connexion with buildings and cesspools, and other means for the reception or disposal of foul matter in connexion with buildings;

(ii) for regulating excavations of any kind in connexion with buildings;

(iii) for regulating wells, tanks and cisterns for the supply of water for human consumption in connexion with buildings;

(iv) for regulating stoves and other fittings in buildings (not being electric stoves or fittings), in so far as by-laws with respect

to such matters are required for the purposes of health and the prevention of fire;

(v) for regulating private sewers and communications between drains and sewers and between sewers;

(vi) for regulating the erection and use of scaffolding and hoarding during the construction, demolition, repair, alteration or extension of any building;

(vii) for prohibiting, securing the removal of and regulating projections and obstructions in front of buildings, and projections over streets, but no such by-law shall be inconsistent with or repugnant to any written law in force in the same area made under any other provision of this Act.

(2) By-laws made under this section may include provisions—

(a) as to the giving of notices and the deposit of plans, sections, specifications and written particulars; and

(b) as to the inspection of work the testing of drains and sewers, and the taking by such county government as aforesaid of samples of materials to be used in the construction of buildings, or in the execution of other works, and for the payment of such reasonable charges and fees as the county government may determine, for the doing of any of the things aforesaid.

(3) By-laws under subparagraphs (i), (ii) and (iii) of subsection (1)(a) may be made with respect to—

(a) structural alterations or extensions of buildings, and buildings so far as affected by alterations or extensions;

(b) buildings or parts of buildings in cases where any material change, within the meaning of subsection (4), takes place in the purposes for which a building or, as the case may be, a part of a building is used,

and, so far as they relate to the matters mentioned in this subsection, may be made to apply to buildings erected before the date on which the by-laws came into force, but, save as aforesaid, shall not apply to buildings erected before that date.

(4) For the purposes of subsection (3), there shall be deemed to be a material change in the purposes for which a building, or a part of a building, is used if—

(a) a building, or a part of a building, being a building or part which was not originally constructed for occupation as a dwelling, or which though so constructed has been appropriated to other purposes, becomes used as a dwelling; or

(b) a building, or a part of a building, being a building or part which was originally constructed for occupation as a dwelling by one family only, becomes occupied by two or more families; or

(c) where by-laws contain special provisions with respect to buildings used for any particular purpose, a building or a part of a building, being a building or part not previously used for that purpose, becomes so used.

(5) Rules may be made under any other provision of this Act notwithstanding that they may be inconsistent with or repugnant to any by-law made under this section and in force in the area to which such rules apply, and to the extent, if any, of such inconsistency or repugnancy as aforesaid, the rules shall prevail.

30B. Power to relax requirements of building by-laws

Where the County Director Public Health considers that the operation of any building by-law made by it under section 29A would be unreasonable in relation to any particular case, it may, with the consent of the CEC for Health for the time

being responsible for the county government given with the agreement of the board, relax the requirements of the by-law or dispense with compliance therewith:

Provided that the county director public health shall give notice of any such proposed relaxation of dispensation in such a manner and to such persons, if any, as the CEC for Health for the time being responsible for the county government may direct, and that the CEC for Health shall not give his consent before the expiration of one month from the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him.

30C. Passing or rejection of plans and retention of plans, etc.

(1) Where plans of any proposed work are, in accordance with any building by-laws made under section 29A, deposited with a health authority, the health authority shall, subject to any other provisions of this Act, or any rule or By-law made there under which expressly requires or authorizes it in certain cases to reject plans, pass the plans unless they either are defective, or show that the proposed work would contravene any of those rules or by-laws, and, if the plans are defective or would contravene any of those rules or by-laws, such a health authority shall reject the plans.

(2) The health authority shall within the prescribed period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether or not they are passed, and—

(a) a notice of rejection shall specify the defects on account of which, or the by-law or the provision of this Act or the rule (if any) made thereunder for non-conformity with which, or under the authority of which, the plans have been rejected; and

(b) a notice that plans have been passed shall state that the passing of the plans operates as an approval thereof only for the purposes of the requirements of the said building by-laws and of any such provision of this Act or any rule made thereunder as is referred to in subsection (1).

(3) Any question arising under this section between a health authority and the person by whom or on whose behalf plans are deposited as to whether the plans are defective, or whether the proposed work would contravene any of the said building by-laws may, on the application of that person, be determined by a subordinate court of the first class:

Provided that no such application shall be entertained unless it is made before the proposed work has been substantially commenced.

(4) For the purposes of this section, the prescribed period in relation to the passing or rejection of plans is one month, but building by-laws made under section 30A by the health authority whose meetings are normally held not more frequently than once a month, may provide that in the case of plans deposited less than three clear days before a meeting of the health authority the prescribed period shall be five weeks:

Provided that the health authority may, within the said period of one month or five weeks, as the case may be, by notice in writing extend such period in the case of any particular application for a further period of one month.

(5) Building by-laws made under section 30A may—

(a) require that plans and other documents to be deposited in pursuance of the by-laws shall be deposited in such number of copies as the health authority may

stipulate and, if the by-laws contain such a requirement the health authority may retain one or more copy of any plans or other documents so deposited, whether or not the plans are passed; and

(b) require the payment of such reasonable fee as the health authority may determine for the examination by it of any plans or other documents deposited with it pursuant to such by-laws; and

(c) stipulate the period within which a building shall be commenced and completed.

30D. Power to require removal or alteration of work in certain cases

(1) If any work, to which building by-laws made under section 30A are applicable, contravenes any of those by-laws, the health authority which made them, without prejudice to its right to take proceedings in respect of the contravention, may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alterations therein as may be necessary to make it comply with the by-laws.

(2) In a case where the health authority is, by any provision in this Act other than section 29C or by any rules made thereunder other than building by-laws made under section 30A, expressly required or authorized to reject plans, then, if any work to which such building by-laws are applicable is executed either without plans having been deposited, or notwithstanding the rejection of the plans, or otherwise than in accordance with any requirements subject to which the health authority passed the plans, the health authority may by notice to the owner either require him to pull down or remove the work, or if he so elects, to comply with any other requirements specified in the notice, being requirements which the

health authority might have made under the provision or rule in question as a condition of passing plans.

(3) A notice under subsection (1) or subsection (2) may be served either personally or by registered post or by attaching the same to such work or by advertisement in not less than two consecutive issues of a newspaper circulating in the area in which such work is situate.

(4) Where such health authority is unable to ascertain the name and address of the owner of the work, the owner of the land upon which the work stands shall, upon being required in writing so to do by the health authority within twenty-eight days of the date of the service of such requirement, furnish the health authority with full particulars of the name and address of the owner of such work, and if the owner of the land without reasonable excuse fails to furnish the said particulars within the time prescribed and if he in furnishing the particulars makes any statement which proves to be false he shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings, and if he shall thereafter continue to withhold the said particulars he shall be liable to a further fine not exceeding one thousand shillings for every day during which such offence shall continue.

(5) If a person to whom notice has been given under subsection (1) or subsection (2) fails to comply with the notice before the expiration of twenty-eight days, or such longer period as may be specified in the notice or as a subordinate court of the first class may on his application allow, the health authority which gave the notice may pull down or remove the work in question, and may if it thinks fit sell the

materials thereof or effect such alterations therein as it deems necessary.

(6) The amount of any expenses incurred by the health authority under subsection (5), after giving credit for any amount realized by the sale of materials if sold, shall be a civil debt recoverable summarily by the health authority from the owner of the work and the owner of the land upon which the work is situate jointly and severally and the right of the health authority to recover any such amount, or any part thereof, from any person under this subsection shall not be barred by reason only of the health authority having obtained judgment for the same, or any part thereof, against any other person, and where any person liable therefore pays to such health authority the full amount of any such expenses, he may recover from any other person liable jointly therefore such contribution, if any, as a subordinate court of the first class may determine to be just and equitable.

(7) Any surplus in the hands of the health authority shall be paid by it to the owners of the work and the land on which the same is situate as those owners agree; and if the owners do not agree as to the division of such surplus the health authority shall be deemed by virtue of this subsection to be a trustee of the surplus for such owners, and section 63 of the Trustee Act (Cap. 167) (which relates to payment into court by trustees) shall have effect accordingly.

(8) The court, in determining for the purposes of this section the shares in which any expenses shall be contributed by, or any surplus shall be divided between, two or more persons, shall have regard to their respective interests in the work and the land on which the same is situate, the right (if any) of the owner of

2016 SIAYA COUNTY ASSEMBLY DEBATES

the work to remove the same, the respective obligations and liabilities of the parties in respect of the maintenance and repair of the work, and all the other circumstances of the case.

(9) By-laws made under section 29A may provide for compensation to be payable by the health authority to the owner or occupier of any work pulled down or removed, for such reasons or in such circumstances as may be specified in the by-laws by such health authority under section 30A(3) but, save as aforesaid, no compensation shall be payable for any work so removed or pulled down.

(10) No such notice as is mentioned in subsection (1) or subsection (2) shall be given after the expiration of twelve months from the date of the completion of the work in question, and, in any case where plans were deposited, it shall not be open to the health authority to give such a notice on the ground that the work contravenes any building by-laws made under section 30A, or, as the case may be, does not comply with its requirements under any other provision of this Act or rules made thereunder as aforesaid, if either the plans were passed by the health authority, or notice of their rejection was not given within the prescribed period from the deposit thereof, and if the work has been executed in accordance with the plans and of any requirement made by the health authority as a condition of passing the plans.

(11) Nothing in this section shall affect the right of a health authority, or of the Attorney General, or of any other person, to apply for an injunction for the removal or alteration of any work on the grounds that it contravenes any by-law or any provision in this Act, but if the work is one in respect of which plans were deposited

and the plans were passed by the health authority or notice of their rejection was not given within the prescribed period after the deposit thereof, and if the work has been executed in accordance with the plans, the court on granting the injunction shall have power to order the health authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall cause the local authority, if not a party to the proceedings, to be joined as a party thereto

Amendment 7

Section

17 Any person who:

- (a) in any way wilfully obstructs the free passage of a street;

be deleted

Amendment 8

Section 17(d)

damages or destroys any tree, shrub, flower, plant or grass on land forming part of a public street;

be amended to read

damages or destroys specially grown trees, floriculture and grass on land forming part of a public street;

Amendment 9

Section 17(e) damages or destroys any barrier, fence, lamp, stone or other material place on a street or by fitting attached thereto;

Be amended to read

damages or destroys any barrier, fence, lamp, stone or other material place on a street or fitting and fitment attached thereto;

Amendment 10

Section 17(f)

willfully or negligently pulls down, damages or destroys any lamp post or

bollard in a street or damages or removes any bulb fitting attached thereto;

Be deleted

Section 17(b)(c)(d) and (e) amended above be moved to section 20 of Part III of this Act

Amendment 11

Section 18, 19 and 20 of part III be deleted

Amendment 12

The following to be parts of the Bill

PART IV – PROTECTION OF FOODSTUFFS

31. Construction and regulation of buildings used for storage of foodstuffs

(1) All warehouses, go-downs or buildings of whatever nature used for the storage of foodstuffs shall be constructed of such materials and in such manner as shall in the opinion of the public health officer render such warehouse, go-down or building rat-proof.

(2) Where any warehouse, go-down or building intended for the storage of foodstuffs aforesaid has fallen into a state of disrepair, or does not in the opinion of the public health officer afford sufficient protection against rat invasion by reason of the materials used in the construction of the same being defective, the public health officer may by written notice require the owner to effect such repairs and alterations as the notice shall prescribe within a time to be specified in the said notice, and if such requirement is not complied with the health authority may enter upon the premises and effect such repairs and alterations, and may recover all costs and expenses incurred from the owner.

(3) Where in the opinion of the public health officer and foodstuffs within a warehouse, go-down or building are insufficiently protected, the owner thereof shall observe all written instructions and directions of the public health officer

within a time to be specified in the said notice for the better protection of the same: Provided that in the case of any prosecution under this section the court may in its discretion acquit the accused if it is satisfied that all reasonable steps have been taken to exclude rats having regard to all the circumstances of the case.

32. Prohibition of residing or sleeping in kitchens or food stores

(1) No person shall reside or sleep in any kitchen or room in which foodstuffs are prepared or stored for sale.

(2) If it appears to the public health officer that any such kitchen or room is being so used contrary to the provisions of this section, or that any part of the premises adjoining the room in which foodstuffs are stored or exposed for sale is being used as a sleeping apartment under such circumstances that the foodstuffs are likely to be contaminated or made unwholesome, he may serve upon the offender or upon the owner of the house, or upon both, a notice calling for such

measures to be taken as will prevent the improper use of such kitchen and premises within a time to be specified in the notice, and if such notice is not complied with the party upon whom it was served shall be guilty of an offence.

PART V – PUBLIC WATER SUPPLIES, MEAT, MILK AND OTHER ARTICLES OF FOOD

33. Duty of county government of Siaya as to protection of water supplies

It shall be the duty of every county government to take all lawful, necessary and reasonably practicable measures—

(a) for preventing any pollution dangerous to health of any supply of water which the public within its jurisdiction has a right to use and does use for drinking or

domestic purposes (whether such supply is derived from sources within or beyond its jurisdiction); and

(b) for purifying any such supply which has become so polluted, and to take measures (including, if necessary, proceedings at law) against any person so polluting any such supply or polluting any stream so as to be a nuisance or danger to health.

34. Rules for protection of water supplies

(1) The CEC for Health, on the advice of the board, may make, and impose on county governments and others the duty of enforcing, rules in respect of defined areas—

(a) prohibiting bathing in, and prohibiting or regulating the washing of clothes or other articles or of animals in, or in any place draining into, any such water supply as is mentioned in section 33

(b) prohibiting or regulating the erection of dwellings, sanitary conveniences, stables, cattle-kraals, pig-styes, ostrich-pens, dipping tanks, factories or other works likely to entail risk of harmful pollution of any such water supply, or prohibiting or regulating the deposit in the vicinity of, or in any place draining into, any such supply of any manure, filth or noxious or offensive matter or thing, and generally, for preventing the pollution dangerous to health of any supply of water which the public within its sub counties has a right to use and does use for drinking or domestic purposes and for purifying any such supply which has become so polluted, and for preventing the pollution of streams so as to be a nuisance or a danger to health.

(2) Rules under this section shall be made with due regard to the interests of agricultural or any other industries.

35. Sale of unwholesome food prohibited

(1) No person shall sell or expose for sale or import or bring into any market or have in his possession without reasonable excuse any food for man in a tainted, adulterated, diseased or unwholesome state, or which is unfit for use, or any food for any animal which is in an unwholesome state or unfit for their use, and any public health officer, veterinary officer, meat inspector or police officer of or above the rank of Inspector may seize any such food, and any magistrate on the recommendation of the public health officer, a sanitary inspector or a veterinary officer may order it to be destroyed, or to be so disposed of as to prevent it from being used as food for man or animal as the case may be.

(2) No person shall collect, prepare, manufacture, keep, transmit or expose for sale any foodstuffs without taking adequate measures to guard against or prevent any infection or contamination thereof.

36. Seizure of unwholesome foods

Any public health officer, or other person duly authorized by the health authority in writing, may, at any time between the hours of 6 a.m. and 6 p.m., enter any shop or premises used for the sale or preparation for sale or storage of food to inspect and examine any food found therein which he has reason to believe is intended to be used as human food, and should such food appear to such officer to be unfit for such use he may seize the same, and any magistrate may order it to be disposed of as in section 35; the proof that such food was not exposed or deposited for any such purpose shall rest with the person charged.

37. Penalty respecting unwholesome food

Any person in whose possession there is found any food liable to seizure under

section 35 or section 36 shall further be guilty of an offence and liable to a fine minimum of fifty thousand and not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

38. Rules for protection of food

The CEC for Health, on the advice of the board, may make rules regarding all or any of the following matters—

(a) the inspection of dairy stock and of animals intended for human consumption, and of dairies, stock-sheds or yards, milk-shops, milk bars, milk vessels and slaughterhouses, and of factories, stores, shops and other places where any article of food is manufactured or prepared or kept; (b) the taking and examination of samples of milk, dairy produce, meat or other articles of food and the removal or detention, pending examination or inquiry, of animals or articles which are suspected of being diseased or unsound or unwholesome or unfit for human consumption, and the seizure and destruction or treatment, or disposal so as not to endanger health, of any such article which is found to be unwholesome or unsound or diseased or infected or contaminated, and of diseased animals sold or intended or offered or exposed for sale for human consumption; and such rules may empower a public health officer, or in the case of meat a veterinary officer, to detain, seize or destroy any diseased, unsound or unwholesome article of food, but shall not confer on any other person any power beyond that of detention of such article for the purpose of examination by a public health officer, or in the case of meat, a public health officer, a veterinary officer or meat inspector to detain, cease or destroy any diseased, unsound or unwholesome article of food, but shall not

confer on any other person any power beyond that of detention of such article for the purpose of examination by public health officer, or in the case of meat or a veterinary officer;

(c) fixing standards of cleanliness of milk, and prescribing the warning to be given to any cow-keeper, dairyman or purveyor of milk that any milk sold or kept or transmitted or exposed for sale by him has been found to be below any such standard, and the issue of orders prohibiting the sale or the keeping or exposure for sale of milk from any particular animal or animals, or requiring the closing of any dairy Stock-shed or yard or milk-shop, milk bar, the milk from which is found, after analysis and official warning, to be below any such standard;

(d) the conveyance and distribution of milk and the labelling or marking of receptacles used for the conveyance of milk;

(e) the veterinary or public health officer inspection of dairy stock, the sampling and bacteriological examination of milk and dairy produce and the prevention of the sale, or the keeping, transmission or exposure for sale, of milk from a diseased or infected animal;

(f) the duties of cow-keepers, dairymen and purveyors of milk in connexion with the occurrence of infectious disease amongst person residing or employed in or about their premises and the furnishing by them of the names and addresses of their customers, and of cow-keepers in connexion with reporting the occurrence, in animals on the premises or any dairy cattle of diseases which are communicable to man and of any disease of the udder;

(g) the inspection and examination of, and the regulation, inspection and supervision of the manufacture, preparation, storage,

keeping and transmission of, any article of food intended for sale or for export, and the prohibition of the manufacture, preparation storage, keeping transmission, sale or export of any such article which is, or contains an ingredient which is, diseased or unsound or unfit for human consumption, or which has been exposed to any infection or contamination;

(h) the establishment, locality, supervision, equipment, maintenance and management of slaughterhouses and the disposal of the waste products of slaughtering and the inspection of slaughterhouses and the animals therein, and prohibiting, restricting or regulating the slaughtering or animals;

(i) prohibiting the importation of any article of food which is not clean, wholesome, sound and free from any disease or infection or contamination, and the seizure and disposal by destruction or otherwise of any such article so imported;

(j) the preparation, manufacture or importation and the storage and sale of or trade in articles of food which are packed in air-tight receptacles or are otherwise preserved, and the marking of any such article or receptacle with the date of manufacture or preparation;

(k) prohibiting the importation, sale, possession or use of vessels which are intended to contain milk or any liquid or semi-solid article of food and which are rusty or defectively soldered or are made of material containing in any part likely to come in contact with the contents, lead or other poisonous or injurious substance in such proportion as to be likely to cause injury or danger to health, and fixing the maximum proportions of such substances which may be used in such vessels;

(l) in relation to food intended for sale or export, prescribing standards of composition, strength and quality, for the

prevention of adulteration, misbranding, misdescription or reduction below a prescribed standard and for securing the sale in a pure state and in a condition which conforms with such standards.

39. Orders for protection of food

The CEC for Health, on the advice of the Board, may make orders—

(a) requiring the medical examination of any person in any premises in which any milk or dairy produce or other article of food intended for sale is collected, kept, sold or exposed for sale, or of any person who has been engaged in the collection, preparation, keeping, conveyance or distribution of any such milk or produce or article;

(b) prohibiting the registration as cow-keeper, dairyman or purveyor of milk, or the employment in connexion with the collection, preparation, storage, distribution or sale of milk, or dairy produce or any article of food, of any person who has been proved to be a carrier of the infection of typhoid or enteric fever or other infectious disease;

(c) requiring the closing of any stock-shed or yard, dairy or milk-shop, or the exclusion from any stock-shed or dairy premises of any animal the milk from which is believed to have conveyed or to be

liable to convey any infectious disease;

(d) prohibiting the sale or exposure for sale of milk by any cow-keeper, dairyman or purveyor of milk who has been three times convicted of offences under any laws or rules regarding the milk trade.

40. Powers of CEC Health respecting milk, etc.

(1) The CEC health may in consultation with the CEC for Agriculture, make

byelaws applicable to the county for all or any of the following purposes—

- (a) for regulating, supervising and licensing purveyors of milk and ice cream makers and vendors;
- (b) for regulating, inspecting, supervising and licensing dairies and milk shops;
- (c) for regulating the conveyance and distribution and securing the identification of the source of milk or milk products distributed, offered for sale or sold within its area of jurisdiction;
- (d) for prescribing the conditions subject to which any milk or milk products, wherever produced or prepared, may be introduced, distributed, stored, sold or used within its area of jurisdiction;
- (e) for enabling county government to certify the quality of any milk and prohibiting the unauthorized use of any terms employed by the county in denoting such quality; and
- (f) for prohibiting the introduction, distribution, storage, sale or use within its area of jurisdiction of any milk or milk products from any source within or without such area where it appears to such county government or a committee thereof, on the certificate of its public health officer or such other person as the county government may authorize in that behalf, that the consumption of such milk or milk products is likely to cause the outbreak or spread of any infectious or contagious diseases.

but no such by-law or rule shall be inconsistent with or repugnant to any rule or order under section 38 or section 39 in force in the county.

(2) The procedure for the making, approval and publication of byelaws or rules made under this section shall be that prescribed in the PHA Cap 242 Public Health (Milk and Dairies) Rules and for

the purpose of enforcement thereof, and the disposal of fines imposed for contraventions thereof.

(3) Rules may be made under section 37 and orders may be made under section 38 notwithstanding that they may be inconsistent with or repugnant to any by-law or rule of a county government and in force in the area to which such rules or orders shall prevail over such By-law or rules of the county government.

PART VI – PREVENTION AND DESTRUCTION OF MOSQUITOES

41. Breeding places of mosquitoes to be nuisances

For the purposes of this Act—

- (a) all collections of water, sewage, rubbish, refuse, ordure or other fluid or solid substances which permit or facilitate the breeding or multiplication of animal or vegetable parasites of men or domestic animals, or of insects or of other agents, which are known to carry such parasites or which may otherwise cause or facilitate the infection of men or domestic animals by such parasites;
- (b) any collection of water in any well, pool, gutter, channel, depression, excavation, barrel, tub, bucket or any other article, and found to contain any of the immature stages of the mosquito;
- (c) any cesspit, latrine, urinal, dung-pit or ash-pit found to contain any of the immature stages of the mosquito, shall be nuisances liable to be dealt with in the manner hereinbefore provided for the treatment of nuisances.

42. Yards to be kept free from bottles, whole or broken, etc.

(1) The occupier or owner of any premises shall keep such premises free from all bottles, whole or broken, whether fixed on walls or not, tins, boxes, calabashes,

earthenware vessels, shells or any other articles which are kept so that they are likely to retain water.

(2) Any occupier or owner of any premises who fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding one hundred shillings.

43. Premises not to be overgrown

No person shall within a township permit any premises or lands owned or occupied by him or over which he has control to become overgrown with bush or long grass of such a nature as, in the opinion of the public health officer, to be likely to harbour mosquitoes.

44. Wells, etc., to be covered

(1) It shall not be lawful for any person to keep, or for the occupier or owner of any premises to allow to be kept thereon, any collection of water in any well, barrel, tub, bucket, tank or other vessel intended for the storage of water, unless such well, barrel, tub, bucket, tank or other vessel is fitted with a sufficient cover and is properly protected or screened to the satisfaction of the public health officer so as to prevent the ingress of mosquitoes into the same.

(2) Any person offending against the provisions of subsection (1) shall be guilty of an offence and liable to a fine of fifty thousand and not exceeding one hundred thousand shillings, and after notice received from the public health officer to a further fine not exceeding twenty shillings for each day during which he makes default.

45. Cesspits to be screened

The occupier or owner of any premises upon or attached to which is any cesspit shall cause such cesspit to be properly protected or screened to the satisfaction of

the public health officer so as to prevent the ingress of mosquitoes into the same, and in default he shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings, and to a further fine not exceeding two thousand shillings for each day during which he continues to make such default after notice received from the health authority to comply with the provisions of this section.

46. Gutters may be required to be perforated

It shall be lawful for the public health officer by written notice to require the occupier or owner of any premises upon or attached to which is any gutter, pipe, groove or waterway used or intended for carrying off water from any roof or other place to cause the same to be perforated by holes at least every two feet in such a manner as to prevent the collection or accumulation of water therein, and if any person duly served with such notice fails to comply with the provisions thereof within such times as may be specified therein he shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings, and to a further fine not exceeding two thousand shillings for each day during which he continues to make such default.

47. Larvae, etc., may be destroyed

Where any of the immature stages of the mosquito are found on any premises in any collection of water in any cesspit, well, pool, channel, barrel, tub, bucket, tank or any other vessel, or in any bottle, whole or broken, whether fixed on a wall or not, tin, box, calabash, shell or any other article, it shall be lawful for the public health officer, health inspector or any person specially authorized in writing in that behalf by the Director of public health or the public health officer to take immediate

steps to destroy any such immature stages of the mosquito by the application of oil or larvicide or otherwise, and to take such action as is necessary to prevent the recurrence of the nuisance and to render any pools or collections of water unfit to become breeding places for mosquitoes.

48. Mere presence of mosquito larvae an offence

Notwithstanding any provision of this Act, the occupier or owner of any house or premises, or the owner or person having the charge of any vessel, timber, cask or other article, in or about which there is any collection of water found by the medical officer of health, health inspector or any other person appointed in writing by the Director of public health or public health officer as an inspector for the purpose to contain any of the immature stages of the mosquito shall be guilty of an offence and liable in respect of each and every such collection of water to a fine not exceeding one hundred thousand shillings, or in default to be imprisoned for three months.

PART VII – CEMETERIES

49. Dead to be buried in appointed cemeteries

(1) It shall be lawful for the county executive committee for health to select and appoint and to notify in the *Gazette* sufficient and proper places to be the sites of and to be used as cemeteries; and it shall be obligatory where such cemeteries exist to bury the dead in such cemeteries in conformity with the provisions of rules made by any county government.

(2) Any person who is guilty of a breach of any such rule shall be guilty of an offence and liable to a fine not exceeding one hundred and fifty thousand shillings.

50. Authorized cemeteries

All cemeteries now being used as such and such other cemeteries as may be authorized by the county executive committee for health, notice whereof shall be published in the *Gazette*, shall be deemed authorized cemeteries.

51. permit to exhume

(1) Subject to the provisions of section 51, it shall not be lawful to exhume any body or the remains of anybody which may have been interred in any authorized cemetery or in any other cemetery, burial ground or other place without a permit granted in manner hereinafter provided.

(2) Such permit shall be granted only to the legal personal representative or next of kin of the person buried, or to his or their duly authorized agent.

(3) Such permit may be granted by the county executive committee for health in respect of any body or the remains of anybody interred in any cemetery or burial ground or any other place.

(4) The permitting authority may prescribe such precautions as he may deem fit as the condition of the grant of such permit, and any person who exhumes anybody or the remains of anybody contrary to this Act, or who neglects to observe the precautions prescribed as the condition of the permit, shall be guilty of an offence and liable to a fine not exceeding four hundred thousand shillings:

Provided that nothing herein contained shall be deemed to affect the right of a magistrate to order the exhumation of a body or the remains of any body for the purpose of holding an inquiry into the cause of death of any person.

52. Exhumation needed for execution of public works may be ordered

(1) It shall be lawful for the County Executive Committee for Health, whenever he deems it expedient for the

execution of any public work or any public purpose, to remove any body or the remains of any body from any grave whether in an authorized cemetery or elsewhere, and by order under his hand to direct such removal to be made in such manner as he thinks fit.

(2) No such order shall be made in respect of any grave situated in an authorized cemetery until six months' notice of the intention to make it has been given by notification in the *Gazette*; copies of such notice shall be posted at or near the grave, and copies shall be sent by post in a registered letter to the legal personal representative or next of kin of the person buried, if his or their address can be ascertained; and such copies shall be accompanied by a translation in the language of the race to which the deceased person belonged.

(3) When an order is made directing a removal from any grave aforesaid elsewhere than in an authorized cemetery, due notice of such order shall, so far as it is possible to do so, be given to the legal representative or next of kin of the person buried before the work of removal is undertaken.

(4) The Government shall make proper and fitting arrangements for the interment in an authorized cemetery of anybody or remains of anybody removed under this section, and for the removal and re-erection of any monument, all charges in connexion therewith being defrayed out of the public funds.

53. Record of permits and orders for exhumation

(1) There shall be kept a record of every permit granted and of every order made under section 51 or section 52.

(2) Such record shall contain particulars, so far as the same can be ascertained, of

the race, nationality, name, sex and age of the persons buried the date of burial and the place of original burial and of reburial or removal.

(3) Such record shall be open during office hours to inspection by any person.

(4) The permitting authority may prescribe such precautions as he may deem fit as the condition of the grant of such permit, and any person who exhumes anybody or the remains of anybody contrary to this act, or who neglects to observe the precautions prescribed as the condition of the permit shall be guilty of the offence and liable to a fine not exceeding five hundred thousand shillings;

Provided that nothing herein shall be presumed to be deemed to affect the right of a magistrate to order for the exhumation of a body or the remains of any body for the purpose of holding an inquiry into the cause of death of any person

54. Exhumations needed for execution of public works

(1) It shall be lawful for the County Executive Committee member for Health in consultation with the board whenever he deems it expedite for the execution of any public works or any public purpose to remove any body or the remains of any body from any grave whether in an authorised cemetery or elsewhere, and by order under his hand to direct such removal to be made in such manner as he thinks fit

(2) No such order shall be made in respect of any grave situated in an authorised cemetery until six months' notice of the intention to make it has been given by notification in the *gazette*;

Copies of such notice shall be posted at or near the grave and copies shall be sent by post in a registered letter to the legal personal representative or next of keen of

the person buried, if his or the address can be ascertained; and such copies shall be accompanied by a translation in the language of the race or tribe to which the deceased person belong.

(3) When an order is made directing a removal from any grave aforesaid elsewhere in an authorised cemetery, due notice of such order shall so far as it is possible to do so, be given to the legal representative or next of kin of the person buried before the work of removal is undertaken.

(4) The County Government shall make proper and fitting arrangements for the interment in an authorised cemetery of an body or remains of anybody removed under this section, and for the removal and re-erection of any monument, all charges in connection therewith being defrayed out of the public funds

55. Closing of cemeteries

It shall be lawful for the CEC for Health to notify in the *Gazette* that any cemetery or burial ground shall, from a time in such notification to be specified, be closed, and the same shall be closed accordingly, and whosoever, after the said specified time, buries anybody or the remains of anybody in the said cemetery or burial ground shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings.

56. Reimbursement of expenses to the board

(1) All reasonable expenses incurred by the board in consequence of any default in complying with any order or notice issued under this Act shall be deemed to be money paid for the use and at the request of the person on whom the said order or notice was made, and shall be recoverable from him at the suit of the board as a civil debt recoverable summarily.

(2) The provisions of this section shall apply to any orders or notices issued under any rules by the health authority

PART VIII – GENERAL

57. Basements not to be occupied without permission

It shall not be lawful to live in, occupy or use, or to let or sublet, or to suffer or permit to be used, any basement for habitation, nor shall it be lawful, without the written permission of the public health officer, to use such basement as a shop, workshop or factory, or for the preparation or storage of food, and no basement shall be used unless it is well lit and ventilated and is free from damp and is rendered rat-proof to the satisfaction of the public health officer.

58. Regulation of lodging-houses

The CEC for Health, on the advice of the board, may make rules for the conduct and inspection of lodging- houses, and no person shall open, or keep open, a lodging house unless the house is registered and the keeper thereof is licensed by the health authority.

59. Regulation of nursing homes, etc.

(1) The CEC Health, on the advice of the board, may make rules for the conduct and inspection of nursing homes convalescent homes, private hospitals, private mental hospitals, maternity homes, infirmaries or any institutions where invalids, convalescents or children are treated or received upon payment of fees or charges, and no person shall open, or keep open, any such premises unless the premises and the keeper thereof are licensed by the board.

(2) The County Director of Public Health and or County Director of Medical Services, on the advice of the board, may authorize a medical practitioner to visit and inspect any such premises, as are

mentioned in subsection (1) and to report to the board upon any matter or thing connected with such premises or the use thereof.

(3) Any person who knowingly obstructs an authorized medical practitioner in any inspection authorized by the Director of Public Health and or Director of Medical Services, under subsection (2), shall be guilty of an offence.

(4) The board may refuse to grant a licence and may cancel any licence which has been granted under this section on any of the following grounds—

(a) that the premises in respect of which a licence is sought or has been granted are unsuitable or otherwise do not conform with the requirements of any rules made under this section;

(b) that the granting or continuance of a licence would be contrary to the public interest;

(c) that the person in respect of whom a keeper's licence is sought or has been granted has failed to satisfy the board that he or she is a fit and proper person to be trusted to conduct or to continue to conduct the premises for which the keeper's licence is sought or has been granted.

60. Markets

For the purposes of this Act, the CEC for Health in consultation with the health board may make rules for the establishment, control and closing of all markets and market buildings.

61. Board may apply for additional public latrines on unleased public land

When in the opinion of the health authority additional public latrine accommodation is required in any locality upon unleased public land, the health authority shall apply in writing to the CEC for Health, specifying the site upon which it desires

the erection of a public latrine, and the accommodation to be provided by such latrine, and the CEC for Health shall, after due inquiry, give his decision on the matter.

62. Regulation of public washer men

The health authority may by public notice prohibit the washing of clothes by washer men in the exercise of their calling except at public wash-houses or at such other places as it may appoint for the purpose.

63. Control of irrigated land, and rules for the regulation of standing or running water

(1) Where it is shown to the satisfaction of the CECM for Health, upon the advice of the board, that the growing of any crop or the irrigation of any land being within the boundaries of a township or within three miles of such boundaries is unhealthful or insanitary, the CECM for Health may, after consultation with the CEC for the time being responsible for Agriculture, by order, prohibit the growing of any crop or the irrigation of any land within any area, within the boundaries of a township or within three miles of such boundaries, and may cause any permit or authorization issued for the diversion, abstraction or use of water for such purpose to be cancelled upon such terms as may appear to him equitable.

(2) The CEC for Health may make rules for ensuring that the health of the inhabitants of a sub county may be safeguarded in respect of—

(a) the prevention of pools of standing water;

(b) the drainage and control of such pools when they exist;

(c) the inspection, repair and cleansing of open channels, canals and drains.

64. Supervision of importation or manufacture of vaccines, etc.

(1) The CEC for Health may provide for the inspection, sampling and examination, by officers of the Medical Department, of vaccines, vaccine lymphs, sera and similar substances imported or manufactured in Siaya and intended or used for the prevention or treatment of human diseases, and may prohibit the importation, manufacture or use of any such substance which is considered to be unsafe or to be liable to be harmful or deleterious.

(2) The CEC for Health may make such rules as he may consider necessary for properly carrying out the provisions of this section.

PART IX – MISCELLANEOUS PROVISIONS

65. Notices, etc., may be printed or written

Notices, orders and other documents under this Act may be in writing or print, or partly in writing and partly in print, and if the same require authentication by the board, or a health authority, the signature thereof respectively by the secretary, sub county administrator, health authority, sanitary inspector or County Secretary, as the case may be, shall be sufficient authentication.

66. Service of notices, etc.

Notices, orders and other documents required or authorized to be served under this Act may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or where addressed to the owner or occupier of premises by delivering the same, or a true copy thereof, to some person on the premises, or if there is no person on the premises who can be served by fixing the same on some conspicuous part of the premises; they may also be served by post by a prepaid letter, and if served by post shall *prima facie* be

deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice, order or other document was properly addressed and put in the post.

67. Power and duties of officers of department

The Deputy Director of Public Health Services, or any assistant director of medical services, medical officer of health, port health officer or public health officer of the department, may with the authority and on behalf of the Director of public health Services discharge any of the duties or functions of the Director of Medical Services, and any duties imposed or powers conferred by this Act on medical officers of health, port health officers, district surgeons or public health officers may be carried out or exercised by the Director of Medical Services, the Deputy Director of Medical Services or any assistant director of medical services or medical officer designated by the Director of Public Health Services for that purpose.

68. Defect in form not to invalidate notices, etc.

No defect in the form of any notice or order made under this Act shall invalidate or render unlawful the administrative action, or be a ground for exception to any legal proceedings, which may be taken in the matter to which such notice or order relates, provided the requirements thereof are substantially and intelligibly set forth.

69. Powers of entry and inspection of premises and penalties for obstruction

(1) Any public health officer or medical officer of health, sub county surgeon or port health officer, or any police officer of or above the rank of Inspector, or any

other person generally or specially authorized in writing by the County Director of Public Health or medical officer of health may, at any hour reasonable for the proper performance of the duty, enter any land or premises to make any inspection or to perform any work or to do anything which is required or authorized by this Act or any other law to do, if such inspection, work or thing is necessary for or incidental to the performance of his duties or the exercise of his powers.

(2) Any person who fails to give or refuses access to any officer, inspector or person mentioned in or authorized under subsection (1) if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this Act, or who fails or refuses to give information that he may lawfully be required to give to such officer, inspector or person, or who gives to such officer, inspector or person false or misleading information knowing it to be false or misleading, or who prevents the owner or any of his servants or workmen from entering any land or dwelling or premises for the purpose of complying with any requirement under this Act, shall be guilty of an offence.

70. Penalty where not expressly provided

Any person who is guilty of an offence under or of any contravention of or default in complying with any provision of, this Act shall, if no penalty is expressly provided for such offence, contravention or default, be liable on conviction to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding nine months, or to both and, if the offence, contravention or default is of a continuing nature, to a further fine not

exceeding five thousand shillings for each day it continues.

71. Liability of secretary or manager of company

Where a contravention of any of the provisions of this Act is committed by any company or corporation, the secretary or manager thereof may be summoned and shall be held liable for such contravention and the consequences thereof.

72. Proceedings against several persons

Where proceedings under this Act are competent against several persons in respect of the joint act or default of such persons, it shall be sufficient to proceed against one or more of them without proceeding against the others.

73. Prosecutions

(1) A health authority may, by any of its officers or by any person generally or specially authorized in writing by the authority, prosecute for any contravention of, offence against, or default in complying with, any provision of this Act or any rule made or deemed to be made thereunder, if the contravention, offence or default is to have been committed within or to affect his area.

(2) Where any officer or person has, under subsection (1), prosecuted any person for any contravention of, offence against or default in complying with any provision of this Act, or any rule made or deemed to be made thereunder, and the accused has been convicted of that contravention, offence or default, all fines and penalties imposed may be recovered by such officer or person as a civil debt recoverable summarily.

74. Power of CEC Health outside its area

Nothing in any law specially governing Siaya County Government shall be construed as preventing the CEC for

Health from exercising any power or performing any duty under this Act by reason only that in exercising such power or performing such duty it must do some act or thing or incur expenditure outside its area.

75. Power of CEC health respecting mosquitoes, flies, etc.

(1) Siaya CEC health may, with the approval of the board, make by-laws for preventing and abating conditions permitting or favouring the breeding of mosquitoes and flies and, generally, for the prevention of malaria and other insect-borne diseases.

(2) Section 40(2) shall apply in respect of any by-laws made under this section as it applies to by-laws made under that section.

76. General power to make rules

The CEC for Health shall have power to make rules generally for the carrying out of the purposes of this Act.

Amendment 13

The following provision to be added

Saving of Cap. 242, 254 and Cap. 245.

75. The provisions of this Act shall be in addition to and not in derogation of the provisions of The Public Health Act, The Food Drug and Chemical Substance Act, and The Dangerous Drugs Act Laws of Kenya.

Amendment 14

Part IV- MISCELLANEOUS

1. Except where otherwise specifically provided in this Act, any person who is guilty of an offence under this Act is liable to a fine of not more than fifty thousand shillings in respect of a first offence and not more than ten thousand shillings in respect of a subsequent offence, or to imprisonment for a period not exceeding six months in respect of a first offence and not exceeding nine months in respect of a subsequent offence, or to both such fine and imprisonment.
2. (1) The executive committee member in charge of the department responsible for the execution of the purposes and provisions of this Act shall have the authority to make regulations for better carrying out of the purposes and provisions of this Act.

Act.

(2) Regulations made under this section shall be subject to the approval of the Assembly for approval, and shall not take effect until they have been so approved.

To be deleted

Amendment 15

Schedule to be referred to as schedule 1

Amendment 16

MEMORANDUM OF OBJECTS AND REASONS

TO BE REPLACED BY

AN ACT of the Siaya County Assembly to give effect to the Fourth Schedule part two paragraph three of the Constitution of Kenya, 2010; to regulate noise pollution and other public nuisances; to provide for the prevention and control of litter pollution and for connected purposes.

PART I-Contains preliminary provisions.it names the proposed Act, defines the words and expressions used in the Bill and states the objective of the proposed Act.

PART II- Entails the administration of the Act

PART III-covers sanitation and housing

PART IV- deals with protection of food stuffs

PART V- – public water supplies, meat, milk and other articles of food

PART VI – prevention and destruction of mosquitoes

PART VII – Cemeteries

PART VIII – General

PART IX – Miscellaneous provisions

Mr. Temporary Speaker, Sir, I would like to thank Hon. Oriaro and Hon. Augd for their support.

second. imprisonment for a period not exceeding six months in respect of a first offence and not exceeding nine months in respect of a subsequent offence, or to both such fine and imprisonment.

Hon. Oriaro: Thank you, Mr.

Mr. Temporary Speaker, Sir, I would like to thank Hon. Oriaro and Hon. Augd for their support. I so wish that

before assessing the amendments, we exhaust it such that the point of amendment gets this. That is my only request, Mr. Chair.

Hon. Were: I want to request that it has been in the parking bay for the last 6 months and the waste management has already been restored to the health sector and the urgency to domesticate this Act now gives us the tips to get on moving and it will be a disservice if we do not dispose of this very Bill. Members were given the opportunity to have this document several months ago and it will be a conspiracy if...

Point of clarification!

Hon. Ndonji: Mr. Temporary Speaker, Sir. From what I can hear, assuming Hon. Oriaro has come up with the proposal and I wanted to know if we are debating on that proposal or on the proposal that has been brought forward by Hon. Oriaro.

The Temporary Speaker (Hon. Abayo): I want to say two things, Hon. Oriaro has made a proposal that was not seconded and therefore was not substantive. If it had been seconded then there would have been consideration. Secondly, the Mover has interjected and has given highlight that this is a document that has been with the Members for a long time. Again Hon. Oriaro did not give reasons for his proposal. Hon. Ndonji was seeking clarification.

Hon. Oriaro: I was very categorical. I can see the document for the first time and like you, Chair, I also got the proposal. Yes, we received the Report in the morning but we did not know that in the afternoon the content and business that is in the Order Paper.

Bearing in mind that at the Committee level, the entire 6 months they have been manufacturing this document

bearing in mind that it is a proposed law we read more into it and I believe only 1 night. Secondly, the House had gone digital as we were talking that time, at no one time was I briefed on the progress of this Report even on my tablet so before we were kept in the darkness so I am just doing it in good faith that's why I didn't even ask for anybody to second me I thought that it would be your power to decide on certain matters of particular that need not be pushed through by us ourselves.

The Temporary Speaker (Hon. Abayo): Procedure will have to be followed for it to be of substance. The Chair will guide but based on procedure. Do we just seek clarification? Hon. Members., if you look at the document that we have been taken through and the document that was originally tabled, it's like this is a totally new Bill. It is very clear that a lot of work has been done to enable us talk about the current Bill. I want to seek this from the desk of the Clerk. When was this amended document given to Members? Is it being confirmed that the Members were seeing this amendment for the first time today?

Hon. Members: Yes!

The Temporary Speaker (Hon. Abayo): Is that the position, clerks?

(Loud Consultation)

Order! Order! Members as you consult.

(Loud consultations)

The Temporary Speaker (Hon. Abayo): Order! Hon Members, having consulted with the desk of the clerks, it's confirmed that these bills were given or shared with Members in February. These

documents were shared as the mover has stated and also the chair is informed that when they were tabled, the copies were given to Members. The chair did raise that they would be doing more work on the administration component which is part 2 page 11, so page 11 and 12 are the only two new areas that were inserted based on what the mover has addressed.

It is therefore substantial that this document has been with us and even the chair is confirming that Members have not read. I therefore submit that this particular bill or discussion on it be deferred since the Chair is also confirming that the Members have not read but that is failure on the part of the Members not to have read. I wish to direct therefore that this particular Bill be deferred and we shall give you time to go through this document

(Applause)

That we shall be able to start now that it has been moved, we start our discussion on this particular Motion on the Siaya County Public Nuisance Bill, 2015 being read the second time. We shall give you room to discuss this tomorrow afternoon.

(Applause)

That also will be applicable on the next Motion, the Siaya County Carriage of Food Bill. It means Members will be still having ---that they have not gone through it. I want to ask that we will ask the mover of this particular second Bill and that is the Chair, when we get to agenda number 9, we shall give the mover time to move this Bill so that you are privy to the content and that as the House Business Committee we will see whether we have this particular

discussion on this Bill next week. For the Bill on Public Nuisance Bill, it stands deferred at that level awaiting more discussion tomorrow. We shall move to agenda number 9 in our Order Paper and we will ask the mover to prepare to move that particular Motion when it is called upon. Before that as the mover prepares to agenda number 9, I want to ask Hon. Awour to table the document that he was supposed to. I hope Hon. Awour you have the document with you now.

Hon. Awour: Yes, I have it.

The Temporary Speaker (Hon. Abayo): I want to ask Hon. Awour, this was a Paper to be tabled, allow him to do that and after that we will move to Order Paper number 9.

Hon. Awour: Thank you, so much Mr. Temporary Speaker. Allow me to lay on the Table of the House the report of Public, Governance and Administration on the Suitability Interviews of the Defunct Local Authority Staff seconded to the County Government. We have enough copies for Members to be given and I want to request that I give a Notice of Motion tomorrow for discussion. Thank you, Mr. Temporary Speaker.

The Temporary Speaker (Hon. Abayo): Based on the review of the programme as I have just stated, the House Business Committee will be looking as when to slot this report. So, anytime it is slotted you will be notified. As he has also mentioned, copies are available and I am informed that more are being produced. Please before you leave, you need to get a copy of the report that has just been presented and I want to direct that, moving forward, because this particular Report given to us, we shall not get more copies, I want to ask Members to keep their copies. I want to direct the office of the Clerk,

2016 SIAYA COUNTY ASSEMBLY DEBATES

starting today, to be providing us with soft copies also. I would also want to urge that the office of the Clerk having decided on the Order Paper should also share it with Members. You know the Standing Orders require 24 hours at least, so share the Order Paper so that Members know what will be on the Order Paper.

BILL

**THE SIAYA COUNTY CARRIAGE OF
FOOD BILL, 2015.**

Hon. Were: Allow me to move a Motion:-

THAT this House adopts the Report on The Siaya County Carriage of food Bill, 2015. (County Assembly Bill No. 5 of 2015)

On behalf of the Members of the Committee on Health Services, I am going to read the Committee's Report of The Siaya County Carriage of food Bill, 2015 to this Honorable House.

On 28th October 2015, The Siaya County Carriage of food Bill, 2015 was read the first time on the Floor of the House and subsequently committed to the Committee on Health Services.

Mr. Speaker, Sir, the Committee held a total of 10 meetings, consulted the relevant stakeholders, held public participation on the Bill on 6th October 2016 and on 9th October 2015. Thereafter the Committee proceeded for Report writing in Kisumu from 22nd November 2015 to 25th November 2015.

**COMMITTEE
OBSERVATIONS.**

A key observation by the Committee was that The Siaya County Carriage of food Bill, 2015 was shallow

and left out a number of crucial issues like it's administration and enforcement. The Committee is a proposition following Standing Order 192, whose mandate is to deliberate on all matters related to County Health Services.

I wish to record the Committee's gratitude to the House for having entrusted the Committee with the execution of the important duty of contributing to the efforts of streamlining the Governance of Health Sector in Siaya County. The Committee is thankful to the entire membership for their dedication and commitment during the fact finding and deliberations that made this Report a reality. The Committee thanks the office of the Department of Health, office of the Assembly Clerk for related facilitations, Ekin and Associates Advocates for the legal scrutiny of the Bill and our Clerk Assistants for ably coordinating the activities that made this Report a reality.

Mr. Speaker, Sir, it is now my pleasant duty, on behalf of The Committee on Health services to present this Report for immediate consideration and adoption by the House. The Committee prays that this Honorable House adopts the recommendations proposed in this Report.

**CONSIDERATION AND
ADOPTION OF THE REPORT BY THE
COMMITTEE.**

We the undersigned members of the Committee on Health Services, having prepared this Report on The Siaya County Carriage of food Bill, 2015 do hereby confirm our agreement with the content of the Report and request the chairperson to present the Report to the House;

1. Hon. Nicholas Were
Chairperson

2016 SIAYA COUNTY ASSEMBLY DEBATES

- | | |
|--|---|
| <p>2. Hon. Rose Okite
Vice Chairperson</p> <p>3. Hon. Edwin Otieno
Member</p> <p>4. Hon. John Gare
Member</p> <p>5. Hon. Charles Kowii
Member</p> <p>6. Hon. Jack Odinga
Member</p> <p>7. Hon. Maurey Ouko
Member</p> <p>8. Hon. Margaret Olongo
Member</p> <p>9. Hon. Sylvia Migaya
Member</p> <p>10. Hon. Anastancia Augo
Member</p> <p>11. Hon. Samwel Olasi
Member</p> | <p>open food and for connected purposes be replaced by An Act of the County Assembly to make provisions for the prevention of contamination and adulteration of food, drugs and chemical substances and for matters incidental thereto and connected with.</p> <p>Amendment 3</p> <p>PART 1 – PRELIMINARY</p> <p>Short title and commencement</p> <p>This Act may be cited as the Siaya County Carriage of Food Act, 2015 and shall come into operation upon assent by the Governor be replaced by this Act may be cited as Siaya County Food, Drugs and Chemical substances Act, 2015 and shall come into operation upon assent by the Governor.</p> |
|--|---|

**COMMITTEE
RECOMMENDATIONS.**

The offices from the Department of Public Health submitted substantive proposals which were discussed and adopted by the Committee as follows;

Amendment 1

Title

The Siaya County Carriage of food Bill, 2015 be deleted and replaced by Siaya County Food, Drugs and Chemical Substances Bill, 2015.

Amendment 2

An Act of the County Assembly to provide for the hygienic handling and carriage of

Hon. Were: .. Short title and Commencement

This Act may be cited as the Siaya County Carriage of Food Act, 2015 and shall come into operation upon assent by the Governor.

Be replaced by

This Act may be cited as Siaya County Food, Drugs and Chemical Substances Act, 2015 and shall come into operation upon assent by the Governor.

Amendment 4

Interpretation

In this Act unless the context otherwise requires-

‘open food’ means food not enclosed in a container of such material and so close as to exclude all risk of contamination

‘health inspector’ means a person duly appointed as by the county government or by any other body lawfully authorized to make such appointment

Be replaced by

1. In this Act, unless the context otherwise requires—

“**advertisement**” includes any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of any food, drug, cosmetic, device or chemical substance;

“**article**” includes—

- (a) any food, drug, cosmetic, device or chemical substance and any labelling or advertising materials in respect thereof;
- (b) anything used for the preparation, preservation, packing or storing of any food, drug, cosmetic, device or chemical substance;

“**authorized officer**” means a chief officer of health, a public health officer or any suitably qualified person authorized in writing by the county government for the purposes of this Act, and—

- (a) for the purpose of any provision of this Act relating to the taking of samples, includes a police officer of or above the rank of Inspector;
- (b) for the purpose of section 29, includes a veterinary surgeon registered or licensed under the Veterinary Surgeons Act;
- (c) for the purpose of any proceedings under section 35, includes the county secretary

“**Board**” means the Public Health (Standards) Board established by section 27;

“**chemical substance**” means any substance or mixture of substances prepared, sold or represented for use as—

- (a) a germicide;
- (b) an antiseptic;
- (c) a disinfectant;
- (d) a pesticide;
- (e) an insecticide;
- (f) a rodenticide;
- (g) a vermicide; or
- (h) a detergent,

or any other substance or mixture of substances which the CEC for Health may, after consultation with the Board, declare to be a chemical substance;

“**container**” includes any basket, pail, tray, package or receptacle of any kind, whether open or closed;

“**cosmetic**” includes any substance or mixture of substances manufactured, sold or represented for use in cleansing, improving or altering the complexion, skin, hair, eyes or teeth, and includes deodorants and perfumes;

“**device**” means any instrument, apparatus or contrivance, including components, parts and accessories thereof, manufactured, sold or represented for use in the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or the symptoms thereof, in man or animal;

“**drug**” includes—

- (a) any substance included in any publication mentioned in the Schedule; and
- (b) any substance or mixture of substances prepared, sold or represented for use in—
 - (i) the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or the symptoms thereof, in man or animal; or
 - (ii) restoring, correcting or modifying organic functions in man or animal;

“**food**” includes any article manufactured, sold or represented for use

as food or drink for human consumption, chewing gum, and any ingredient of such food, drink or chewing gum;

“insanitary conditions” means such conditions or circumstances as might contaminate food, a drug or a cosmetic with dirt or filth or might render the same injurious or dangerous to health;

“label” includes any legend, work or mark attached to, included in, belonging to or accompanying any food, drug, cosmetic, device or chemical substance;

“medical officer of health” means a person appointed as a medical officer of health under the Public Health Act, and includes a deputy medical officer of health and an assistant medical officer of health so appointed; and includes any other person so appointed by CEC for health

“package” includes anything in which any food, drug, cosmetic, device or chemical substance is wholly or partly placed or packed;

“premises” includes any building or tent together with the land on which the same is situated and any adjoining land used in connection therewith, and includes any vehicle, conveyance or vessel;

“preparation” includes manufactured and any form of treatment, and “prepared” shall be construed accordingly;

“public analyst” means a person appointed by the CEC for health, county secretary with the approval of CEC health, to act as an analyst for the purposes of this Act:

Provided that no person shall be appointed a public analyst for any area in which he is engaged directly or indirectly in any trade or business connected with the sale of food, drugs, cosmetics, devices or chemical substances;

“public health officer” means a person appointed as such by the CEC for Health or by the county secretary;

“sell” includes offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale or exchange, dispose of for any consideration whatsoever, or transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid;

“ship” includes any boat or craft;

“substance” includes liquid.

“County Executive Committee Member” member appointed by the County Governor, with the approval of the Assembly, from among persons who are not members of the assembly.

Amendment 5

Object and purpose of the Act

The object and purpose of this Act is to ensure hygiene is observed in handling and carriage of food

Be replaced by

The object and purpose of this Act is to make provisions for the prevention of adulteration of food drugs and chemical substances and for matters incidental thereto and connected there with.

Amendment 6

PART II-HANDLING OF FOOD

Be moved to part III

And part II becomes

ADMINISTRATION AND ENFORCEMENT

Establishment of Board.

The Offices of the Director Public Health and Director Medical Services mentioned below refer to section 4(1&2) of the Siaya County Public Nuisance Bill, 2015

27. (1) A Board known as the Public Health (Standards) Board, which shall consist of ten members appointed by the CEC for Health unless otherwise provided shall be established

(2) The members of the Board shall be—

(a) a chairman, who shall be the County Director of Health, or a person deputed by him in writing for the purposes of this Act;

(b) a vice-chairman, who shall be the County Public Health Officer, or a person deputed by him in writing for the purposes of this Act;

(c) four members appointed to represent the County Government;

(d) one member representing with special knowledge of the food packing industry;

(e) one member representing public health department;

(f) one member nominated by the Pharmaceutical Society of Kenya; and

(g) one member representing the County Assembly.

(3) All appointments made under this section shall be notified in the Gazette.

(4) The members of the Board appointed under paragraphs (d),

(e), (f) and (g) of subsection (2)—

(a) shall each hold office for a period of three years, and shall then retire but shall be eligible for reappointment;

(b) may at any time resign by instrument in writing addressed to the chairman.

(5) The quorum of the Board shall be four.

(6) The Board may invite any person to attend any particular meeting for the purpose of assisting or advising the Board, but no such person shall have any right to vote at such meeting.

(7) Subject to this Act, and to any general or special directions in writing by

the CEC for Health, the Board shall regulate its own proceedings

Regulations.

28. (1) The CEC for Health, in consultation with the Board, may make regulations—

(a) declaring that any food, drug or chemical substance or class of food, drugs or chemical substances is adulterated if any prescribed substance or class of substances is present therein or has been added thereto or extracted or omitted therefrom;

(b) respecting—

(i) the labelling and packing and the offering, exposing and advertising for sale of food, drugs, chemical substances, cosmetics and devices;

(ii) the size, dimensions and other specifications of packages of food, drugs, chemical substances, cosmetics and devices;

(iii) the sale or the conditions of sale of any food, drug, chemical substance, cosmetic or device; and

(iv) the use of any substance as an ingredient in any food, drug, chemical substance or cosmetic or device,

to prevent the consumer or purchaser thereof from being deceived or misled as to its quality, quantity, character, value, composition, effect, merit or safety or to prevent injury to the health of the consumer or purchaser;

(c) prescribing standards of composition, strength, potency, purity, quality or other property of any food, drug, chemical substance, cosmetic or device;

(d) respecting the importation or exportation of food, drugs, chemical substances, cosmetics and devices in order to ensure

- compliance with this Act and any regulations made thereunder;
- (e) respecting the method of preparation, preserving, packing, storing, conveying and testing of any food, drug, chemical substance, cosmetic or device in the interests of, or for the prevention of injury to the health of the consumer, user or purchaser;
 - (f) respecting the carriage of goods subject to the provisions of this Act, including the licensing of vehicles used in such carriage;
 - (g) requiring persons who sell food, drugs, chemical substances, cosmetics or devices to maintain such books and records as the Board considers necessary for the proper enforcement and administration of this Act and any regulations made thereunder;
 - (h) requiring manufacturers of any drugs or chemical substances to submit test portions of any batch of such drugs or chemical substances;
 - (i) providing for the analysis of food, drugs, chemical substances, cosmetics or devices for the purposes of this Act or for any other purpose and prescribing a tariff of fees to be paid for such analysis and for prescribing methods of analysis;
 - (j) providing for the taking of samples of any article for the purposes of this Act or for any other purpose;
 - (k) exempting any food, drug, cosmetic, chemical substance or device from all or any of the provisions of this Act and prescribing the conditions of such exemption.
- (2) Where any regulations made under this Act or under the Public Health Act or Food, Drugs and Chemical substances Act prohibit or restrict the addition of any

preservative or other ingredient or material to any food, the addition of such preservative, ingredient or material, if made in contravention of the regulations, shall, for the purposes of this Act, be deemed to render the food injurious to health.

(3) Where any regulations made under this Act or under the Public Health Act or Food, Drugs and Chemical substances Act prescribes the composition of any article of food intended for sale, or prohibit or restrict the addition of any preservative or other ingredient or material to any such article, the purchaser of such article shall, unless the contrary is proved, be deemed for the purposes of this section to have demanded an article complying with the provisions of the regulations as regards the presence or amount of any constituent, ingredient or material specified in the regulations.

(4) The CEC for Health, after consultation with the Board, may make regulations generally for carrying any of the purposes or provisions of this Act into effect.

Inspection of animals, fish and poultry by authorised officers

29. An authorized officer may, for the purposes of this Act, inspect any animal intended for slaughter and may seize and examine any meat which he considers to be unfit for consumption.

Power of authorised officer

30. (1) An authorized officer may, at any hour reasonable for the proper performance of his duty—

- (a) enter any premises where he believes any article to which this Act or any regulations made thereunder apply is prepared, preserved, packaged, stored or conveyed, examine any such article and take samples thereof, and examine anything that he

believes is used or capable of being used for such preparation, preservation, packaging or storing or conveying;

(b) stop or search or detain any aircraft, ship or vehicle in which he believes that any article subject to the provisions of this Act is being conveyed and to examine any such article and take samples thereof for the purposes of this Act;

(c) open and examine any receptacle or package which he believes contains any article to which this Act or any regulations made thereunder apply;

(d) examine any books, documents, or other records found in any place mentioned in paragraph (a) of subsection (1) that he believes contain any information relevant to the enforcement of this Act with respect to any article to which this Act or any regulations made thereunder apply and make copies thereof or take extracts therefrom;

(e) seize and detain for such time as may be necessary any article by means of or in relation to which he believes any provision of this Act or any regulations made thereunder has been contravened.

(2) An authorized officer acting under this section shall, if so required, produce his authority.

(3) Any owner, occupier or person in charge of any premises entered by an authorized officer pursuant to paragraph (a) of subsection (1), or any person found therein, who does not give to the authorized officer all reasonable assistance in his power and furnish him with such information as he may reasonably require, shall be guilty of an offence.

(4) Any person who obstructs or impedes any authorized officer in the course of his duties or by any gratuity, bribe, promise, or other inducement prevents, or attempts to prevent the due execution by the authorized officer of his

duty under this Act or any regulations made thereunder shall be guilty of an offence.

(5) Any person who knowingly makes any false or misleading statement either verbally or in writing to any authorized officer engaged in carrying out his duties under this Act or any regulations made thereunder, shall be guilty of an offence.

(6) An authorized officer shall release any article seized by him under this Act when he is satisfied that all the provisions of this Act and any regulations made thereunder with respect thereto have been complied with.

(7) Where an authorized officer has seized an article under this Act and the owner thereof or the person in whose possession the article was at the time of seizure consents to the destruction thereof, the article may be destroyed or otherwise disposed of as the authorized officer may direct.

(8) Where a person has been convicted of an offence under this Act or any regulations made thereunder, the court may order that any article by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the convicted person or found with such article, be forfeited, and upon such order being made such articles and things may be disposed of as the court may direct.

(9) Where any article has been seized under the provisions of paragraph (e) of subsection (1) and the owner thereof has been convicted of an offence under this Act, the article may be destroyed or otherwise disposed of as the authorized officer may direct.

(10) Any article seized under this Act may at the option of an authorized officer be kept or stored in the premises where it was seized or may at the direction of an authorized

officer be removed to any other proper place; and any person who removes, alters or interferes in any way with articles seized under this Act without the authority of an authorized officer shall be guilty of an offence.

(11) An authorized officer may submit any article seized by him or any sample there from or any sample taken by him to a public analyst for analysis or examination; and a public analyst shall as soon as practicable analyse or examine any sample sent to him in pursuance of this Act and shall give the authorized officer a certificate specifying the result of the analysis or examination, and such certificate shall be in such form as may be prescribed by the CEC for Health on the advice of the Board.

(12) In this section, “premises” includes a street, open space, place of public resort, or bicycle or other vehicle utilized for the preparation, preservation, packaging, storage or conveyance of any article.

cumulative effect on the health of a person consuming the substance in ordinary quantities.

(3) No particulars furnished in accordance with a direction under this section, and no information relating to any individual business obtained by means of such particular shall, without the previous consent in writing of the person carrying on the business in question, be disclosed except—

(a) in accordance with regulations made by the CEC for Health, so far as may be necessary for the purposes of section 26;

(b) for the purposes of any proceedings for an offence against the order or any report of those proceedings, and any person who discloses any such particulars or information in contravention of this subsection shall be guilty of an offence.

Amendment 7

PART III-HANDLING OF FOOD

Title- HANDLING OF FOOD

Be replaced by

GENERAL PROVISIONS

Amendment 8

Add the following at the beginning of the section

A—Food

Prohibition against sale of unwholesome food, poisonous or adulterated

3. Any person who sells any food that—

(a) has in or upon it any poisonous or harmful substance; or

(b) is unwholesome or unfit for human consumption; or

(c) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased substance or foreign matter; or

(d) is adulterated,

shall be guilty of an offence.

Deception

4. Any person who labels, packages, treats, processes, sells or advertises any food in contravention of any regulations made under this Act, or in a manner that is false, misleading or deceptive as regards its character, nature, value, substance, quality, composition, merit or safety, shall be guilty of an offence.

Standards of foods.

5. Where a standard has been prescribed for any food, any person who labels, packages, sells or advertises any food which does not comply with that standard, in such a manner that it is likely to be mistaken for food of the prescribed standard, shall be guilty of an offence.

Prohibition against sale of food not of nature, substance or quality demanded.

6. Any person who sells to the prejudice of the purchaser any food which is not of the nature, or is not of the substance, or is not of the quality, of the article demanded by the purchaser shall be guilty of an offence.

Preparation of food under insanitary conditions.

7. Any person who sells, prepares, packages, conveys, stores or displays for sale any food under insanitary conditions shall be guilty of an offence.

B—Drugs

Prohibited sale of drugs.

8. Any person who sells any drug that—

- (a) is adulterated; or
- (b) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased substance or foreign matter, shall be guilty of an offence.

Deception.

9. Any person who labels, packages, treats, processes, sells or advertises any drug in contravention of any regulations made under this Act, or in a manner that is false, misleading or deceptive as regards its character, constitution, value, potency, quality, composition, merit or safety, shall be guilty of an offence.

Standards of drugs

10. (1) Where a standard has been prescribed for a drug, any person who labels, packages, sells or advertises any substance in such a manner that it is likely to be mistaken for that drug shall be guilty of an offence unless the substance is the drug in question and complies with the prescribed standard.

(2) Where a standard has not been prescribed for a drug but a standard for the

drug is contained in any of the publications specified in the Schedule, any person who labels, packages, sells or advertises any other substance or article in such a manner that it is likely to be mistaken for such drug shall be guilty of an offence.

(3) Any person who labels, packages, sells or advertises any drug for which no standard has been prescribed, or for which no standard is contained in any of the publications specified in the Schedule, shall be guilty of an offence unless such drug—

- (a) is in accordance with the professed standard under which it is labelled, packaged, sold or advertised; and
- (b) does not resemble, in a manner likely to deceive, any drug for which a standard has been prescribed or which is contained in any of the publications specified in the Schedule.

Prohibition against sale of drugs not of nature, substance or quality demanded.

11. Any person who sells to the prejudice of the purchaser any drug which is not of the nature, or is not of the substance, or is not of the quality, of the article demanded by the purchaser shall be guilty of an offence.

Preparation of drug under insanitary conditions

- 1. Any person who sells, prepares, preserves, packages, stores or conveys for sale any drug under insanitary conditions shall be guilty of an offence.

C—Cosmetics

Prohibited sale of cosmetics.

13. Any person who sells any cosmetic that—

(a) has in or upon it any substance that may cause injury to the health of the user when the cosmetic is used—

(i) according to the directions on the label of or accompanying such cosmetic; or

(ii) for such purposes and by such methods of use as are customary or usual therefor; or

(b) consists in whole or in part of any filthy, disgusting, rotten, decomposed or diseased substance or of any injurious foreign matter; or

(c) was prepared, preserved, packed or stored under insanitary conditions,

shall be guilty of an offence.

Standards of cosmetics

14. Where a standard has been prescribed for a cosmetic, any person who labels, packages, sells or advertises any article in such a manner that it is likely to be mistaken for a cosmetic of the prescribed standard shall be guilty of an offence unless the article complies with the prescribed standard.

Preparation of cosmetic under insanitary conditions

15. Any person who sells, prepares, preserves, packages, conveys, stores or displays for sale any cosmetic under insanitary conditions shall be guilty of an offence.

D—Devices

Prohibited sale of devices.

16. Any person who sells any device that, when used according to directions on the label or contained in a separate document delivered with the device or under such conditions as are customary or usual, may cause injury to the health of the purchaser or user thereof shall be guilty of an offence.

Deception.

17. Any person who labels, packages, treats, processes, sells or advertises any device in contravention of any regulations made under

this Act, or in a manner that is false, misleading or deceptive as regards its character, value, composition, merit or safety, shall be guilty of an offence.

Standards of devices

18. Where a standard has been prescribed for a device, any person who labels, packages, sells or advertises any article in such a manner that it is likely to be mistaken for that device shall be guilty of an offence unless the article complies with the prescribed standard.

Preparation of devices under insanitary conditions

19. Any person who sells, prepares, preserves, packages, stores or conveys for sale any device under insanitary conditions shall be guilty of an offence.

E—Chemical Substances

Adulteration of chemical substances

20. Any person who sells any chemical substance that—

(a) is adulterated; or

(b) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased substance or foreign matter, shall be guilty of an offence.

Deception

21. Any person who labels, packages, treats, processes, sells or advertises any chemical substance in contravention of any regulations made under this Act, or in a manner that is false, misleading or deceptive as regards its character, value, quality, composition, merit or safety, shall be guilty of an offence.

Standards of chemical substances

22. Where a standard has been prescribed for a chemical substance, any person who labels, packages, sells or advertises any other substance in such a manner that it is likely to be mistaken for that chemical substance shall be guilty of an offence unless the substance complies with the prescribed standard for such chemical substance.

Professed standards

23. Any person who sells any chemical substance which—

- (a) is not in accordance with the professed standard under which it is sold; and
- (b) resembles in a manner likely to deceive any branded chemical substance sold under a professed standard,

shall be guilty of an offence.

Disposal of chemical substances in a certain manner prohibited

24. Any person who uses or disposes of any chemical substance in a manner likely to cause contamination of food or water for human consumption or in a manner liable to be injurious or dangerous to the health of any person shall be guilty of an offence

Prohibited sale of chemical substances

25. Any person who sells any chemical substance which, when used according to the instructions of the manufacturer or under such conditions as are customary or usual, might cause injury to the health of any person shall be guilty of an offence

Preparation of chemical substances under insanitary conditions.

26. Any person who sells, prepares, preserves, packages, stores or conveys for

sale any chemical substance under insanitary conditions shall be guilty of an offence.

Conveyance of food in a vehicle or other contraption

4. Any person who conveys or permits to be conveyed, in a vehicle or other contraption, in connection with any trade or business, on a street or other public place, any open item of food in a manner contrary to ***these rules*** or in a manner likely to expose the food to contamination shall be guilty of an offence

‘these rules’ to refer to Siaya county food, drugs and Chemical substances Act (**food hygiene**) regulations and Siaya county food, drugs and Chemical substances Act (**General**) Regulations

For matters relating to food labeling, additives and standards, the provisions of The Food Drugs and Chemical Substances Act CAP 254 (2012) shall apply.

Amendment 9***Handling of food***

5.(i) Any person engaged in the handling, storage or conveyance of open food in connection with any trade or business shall whilst so engaged:

- a) Be clean in all parts of his body
- b) Keep clean his or her clothing that may come into contact with food
- c) Keep any part or abrasion covered with a suitable and clean water proof dressing
- d) Refrain from spitting or blowing his or her nose otherwise than in a hygienic manner into a suitable cloth or tissue

e) Refrain from smoking

Be deleted

f) When handling meat, wear a white garment

Amendment 13

2. Any person who contravenes or fails to comply with any of the provisions of subsection (1) above is guilty of an offence

PART III-MISCELLANEOUS

*Change title to **LEGAL PROCEEDINGS***

In section 5(1) add

*Legal proceedings then become **PART IV***

Satisfy section 28 of this Act and Siaya County Food, Drugs and Chemical Substances (food Hygiene) Regulations.

Amendment 14

Add the following at the beginning of legal proceedings retain section 8(1) (a)(b)(c) and (2), (3)

In section 5 (1) Delete a, b, c, d, e and f

Power of court to order licence to be cancelled.

Amendment 10

Delete section 2 above and replace with section 17 of food hygiene regulations

34. On the conviction of any person for any offence under this Act or any regulations made thereunder, the court may, in addition to or in lieu of any other penalty which it may lawfully impose, cancel any licence issued under this Act, or any regulations made thereunder, to such person.

Amendment 11

Inspection of meat

Prosecution. 20 of 1989, Sch

6. Any person who shall in his possession or under his control for purpose of sale of any meat or poultry which has not been inspected at a designated place as defined by any law or medical officer of health or health inspector and marked as having been so inspected shall be guilty of an offence

35.(1) An authorized officer may take out proceedings for an offence under this Act or the regulations before any magistrate having jurisdiction in the place where any article sold was actually delivered to the purchaser or where the sample was taken.

Be deleted since it has been covered in section 29 of Part II –Administration and Enforcement.

(2) In any proceedings under this Act, the contents of any container appearing to be intact and in the original state of packing by the manufacturer thereof shall be deemed, unless the contrary is proved, to be an article of the description specified on the label.

Amendment 12

Meat in catering establishments

Penalties.

7. For the purpose of this Act, any meat or poultry in any shop, store, hotel, restaurant, catering house, snack, Bar or other catering establishment shall be deemed to be for sale unless the contrary is proved.

36.(1) A person who is guilty of an offence under this Act for which no special penalty is provided shall be liable—

(a) in the case of a first offence, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not

exceeding two years, or to both such fine and imprisonment;

(b) in the case of a subsequent offence, to a fine not exceeding seven hundred thousand shillings or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

(2) In any prosecution under this Act the summons shall state the particulars of the offence or offences alleged and also the name of the prosecutor and shall not be made returnable in less than fourteen days from the date on which it is served.

Certificates of analysis and presumptions

37. In any proceedings under this Act—

(a) a certificate of analysis purporting to be signed by a public analyst shall be accepted as prima facie evidence of the facts stated therein:

Provided that—

(i) the party against whom it is produced may require the attendance of the public analyst for the purposes of cross-examination; and

(ii) no such certificate of a public analyst shall be received in evidence unless the party intending to produce it has, before the trial given to the party against whom it is intended to be produced, reasonable notice of such intention together with a copy of the certificate;

(b) evidence that a package containing any article to which this Act or any regulations made thereunder apply bore a name, address or registered mark of the person by whom it was manufactured or packed shall be

prima facie evidence that such article was manufactured or packed, as the case may be, by that person;

(c) any substance commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale for human consumption;

(d) any substance commonly used for human consumption which is found on premises used for the preparation, storage, or sale of that substance and any substance commonly used in the manufacture of products for human consumption which is found on premises used for the preparation, storage or sale of those products, shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing products for sale, for human consumption;

(e) any substance capable of being used in the composition or preparation of any substance commonly used for human consumption which is found on premises on which that substance is prepared shall, until the contrary is proved, be presumed to be intended for such use.

Saving of Cap 242, 254 and Cap 245

38. The provisions of this Act shall be in addition to and not in derogation of the provisions of The Public Health Act, The Food Drug and Chemical Substance Act, and The Dangerous Drugs Act Laws of Kenya.

CEC Member for Health power to amend Schedule.

39. The CEC for Health in consultation with the board may amend Schedule through a gazette notice

Amendment 15

Offences

9(1) Any person who is guilty of an offense under this Act shall be liable on conviction to a fine not exceeding ten thousand shillings in respect of a first offense or imprisonment for a period not exceeding six months in respect of a first offence and not exceeding nine months in respect of a second or subsequent offence or to both such fine and imprisonment.

2) any person who fails to comply with the requirement of any notice served under this Act within the time specified by such notice shall be guilty of an offense and liable on conviction to the penalties specified in subsection(1) above.

Regulations

10. The Executive Committee Member may make regulations, not inconsistent with this Act respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act

Be deleted

MEMORANDUM OF OBJECTS AND REASONS

Be deleted and replaced by

This Bill is made pursuant to the Fourth Schedule part 2 paragraph 2(d) of the Constitution of Kenya that provides for

licensing and control of undertaking that sell food to the public.

PART I- names the proposed Act, defines words and expressions used in the Act. It also provides for the commencement of this Act if passed into law and its object.

Amendment 16

PART II-provides for how food should be handled

Be replaced by

PART II- Outlines the administration and enforcement of the Act

PART III- provides for miscellaneous aspect which provides for service of notice or document, offences and penalties in this Act and gives the Executive Member in charge of health the powers to ensure the regulations is drafted if necessary

Be replaced by

PART III- entails the general provisions of the Act

To be added

PART IV- stipulates guidelines when undertaking legal proceedings when the Act is violated

Hon. Were: I request Hon. Augo to second.

Hon. Augo: I rise to second.

Hon. Temporary Speaker (Hon. Abayo): As I had mentioned, the Chair would be able to propose the question when it will have been initiated for discussion.

MOTION

ADJOURNMENT

Hon. Temporary Speaker (Hon. Abayo): Hon. Members will we up standing for adjournment.

Having exhausted the agenda which is on the Order paper today this House stands adjourned until tomorrow at 2.30 p.m.

The House rose at 4.40 p.m.

THURSDAY, 4TH AUGUST, 2016

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

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

PRAYER**COMMUNICATION FROM THE CHAIR****STUDENTS FROM UYAWI SECONDARY SCHOOL**

Hon. Speaker: Hon. Members, may I make the following Communications:-

Hon. Members, today, in our Public Gallery, we have the honour to host students from Uyawi Secondary School in Central Sakwa Ward, Siaya County. May we receive them.

(Applause)

The teachers accompanying the students are:-

1. Onyimbo Jared
2. George Otoyoy
3. Humphrey Omanyoy
4. Emmanuel Amwayi

May we receive them in our standard way.

(Applause)

I want to bring it to your attention that our staff had given them a brief tour of how our Assembly looks like and the instruments we use in this place. We want to encourage them to continue visiting.

Secondly, as much as what I want to communicate to you is under 'Messages', allow me to tie it to my communication. The Office of the County

Secretary, the head of the public service has written to the Speaker on the nomination of representatives to a taskforce in collaboration with Kenya Maritime Authority on safety in the water borders. The letter reads;

'The County Government is in the process of forming a taskforce in collaboration with Kenya Marine Authority (KMA) to manage issues emanating from our water bodies such as safety of our people in the lake and rivers inter alia. The purpose of this letter therefore is to request your office to nominate two Members to this taskforce to attend its first meeting scheduled for 9th of August, 2016 at the Governor's Board Room at 9:00 a.m.'

The letter has been signed by Dave Anyona Kanundu, the County Secretary. Because this letter has just come a few minutes to the start of our sitting, I direct that the Committee of Agriculture, Livestock and Fisheries sits down soon after this sitting or consider having a special meeting tomorrow morning to nominate those two Members on my behalf.

Consider two things;

1. A Member that comes from the lake region.
2. A Member representing the Committee.

Next Order!

2016 SIAYA COUNTY ASSEMBLY DEBATES

BILL

THE SIAYA COUNTY
PUBLIC NUISANCE BILL,
2015 (Bill No.10 of 2015)
Second Reading

*(Continuation of Debate interrupted on
Wednesday, 3rd August, 2016)*

Hon. Speaker: Hon.

Members, I am informed that the Question had been proposed and therefore debate on the Bill can go on. Yes, Member for Central Alego, Hon. Oriaro.

Hon. Oriaro: Thank you, Mr.

Speaker, Sir. First and foremost, yesterday night while I was online, I bumped into some egyptological text. Egyptology is the science and art of reading and interpreting the writings of ancient Egyptian. During the reign of Pharaoh Khufu, he lost one of his sons merely because of cholera.

The Siaya County Public Nuisance Bill has come at the right time. Healthcare is a devolved function and it is very unfortunate that at one point, Central Alego Ward lost quite a number of lives because of cholera. Cholera that claimed the son of Pharaoh Khufu many years ago when the world was still far away from technology and science. With this Bill, we shall be able to get rid of silly diseases like cholera.

That is the only thing I wanted to say because I am sad that tomorrow I'll be burying my brother, Rev. Fr. Gabriel Okolla Kowele at Kibuye cemetery. That's why my nephew, Hon. Peter Muhuloh is not here.

Lastly, Mr. Speaker, Sir, I wasn't to give notice of an amendment that will be considered by the Committee of the

whole House. I want to draw the attention of the House to page 11 of 42 on the aspect of administration. Part 2 - Establishment of the Office of the County Director, Public Health. There is an omission of the word 'of'. So, I am giving notice of an amendment that the word 'of' be placed between Director and Health.

Worse off, under the duties and responsibilities, it is stated that 'the above officer will be answerable to the CEC Member Health Services for the administration of all the activities in the Public Health function'. Don't we recall that we have a Chief Officer who is the only officer directly under a CECM and that Directors fall below the Chief Officers? This one will be a negation of the chain of command.

Mr. Speaker, Sir, general, this document is good and I support.

Hon. Speaker: Hon. Oriaro, be advised that you need to put your amendment proposal in writing and serve the Committee accordingly.

Hon. Oriaro: Most obliged, Mr. Speaker, Sir. I was just raising the spirit of amendments.

Hon. Speaker: Be advised to put your amendment proposals in writing and channel them through the relevant Committee.

Yes, Hon. Joannes Andiego, Member for Central Sakwa.

Hon. Andiego: Thank you, Mr. Speaker, Sir. Though you had done it, allow me to also welcome students from Uyaw Secondary School. As their representative, I recognize their presence and they are welcome to where we make laws.

Mr. Speaker, Sir, I have gone through this document and I must say that we ought to have had it even three years

2016 SIAYA COUNTY ASSEMBLY DEBATES

ago. The health sector is quite important and as a County we have had challenges. As Hon. Oriaro stated, the County recently had a cholera outbreak which affected so many lives. Where I come from, there are two islands which were affected and when we consulted officers from the health department, they told us that it is difficult to curb the spread of cholera because there was no legal framework. I have gone through this Bill and if it is passed, the County will move many steps ahead.

Mr. Speaker, Sir, I make reference to part 2 of page 12 which talks about the establishment of the office of the County Director, Medical Services. When you go through it, it talks of two directors. There is the Director of Health and the Medical Director. Maybe those with a background in medicine can tell us the difference between the two. If these two positions are distinct and their roles well captured to avoid people fighting over their mandates, then the County will move to greater heights.

Mr. Speaker, Sir, move with me to page 13 which talks of the creation of a board whose function will be to advise the CECM for Health upon all matters affecting the public health. In this County, when you go to the CEC Health for consultation, he will always tell you that his hands are tied. At times we even don't know what has tied his hands. With the creation of this board which will advise him on matters public health, I believe his hands will no longer remain tied.

Mr. Speaker, Sir, on page 16 there is a bit that talks about sanitation and housing. Under nuisance prohibited, it reads; no person shall cause a nuisance or shall suffer to exist on any land or premises owned or occupied by him or of which he is charge any nuisance or other

condition liable to be injurious or dangerous to health. I believe this will help us in dealing with noise pollution from some churches and bars.

Mr. Speaker, Sir, this is a good Bill and I would urge my colleagues to adopt it and after its passage, the Implementation Committee should see to it that its implementation is fast-tracked.

(Hon. Were walked into the Chambers)

Thank you, Mr. Speaker, Sir.

Hon. Speaker: Yes, Hon. Chief Whip.

Hon. Gare: Thank you, Mr. Speaker, Sir. I am also on my feet to support the adoption of this Bill. First, allow me to react on the creation of the two directorates. If this Bill is passed, the two directors we want to have will enable *wananchi* access better healthcare even at the grass root level. As we are talking, Siaya County has only one medical director in charge of health who looks into matters at the Siaya county Referral Hospital and also the CHVs at the level one hospitals.

When we create the office of the public health director, the medical director will be heading the sub-county hospitals upwards while the public health director will be in charge of the other institutions down to the CHVs. We are having a problem in the health sector because the director is doing much more than he should be doing.

The other day there was mayhem in Bondo because a mother died at the Referral Hospital and when they were taking the child to the family after the operation, some people thought they had stolen the child. This is because the Medical Director is overstretched.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Mr. Speaker, Sir, there is a lot of noise all over this County because we still don't have a Bill in place. So, I want to urge Hon. Members to pass this. Fortunately enough, the Hon. Chair has just arrived, though late---

(Laughter)

We know he will also expound on this. Even though the Bill is coming too late in the day, it is better late than never. With this Bill, Siaya County residents will get the right healthcare services they need. Thank you.

Hon. Speaker: Yes, Hon. Erick Ndonji, Member for Ugenya East.

Hon. Ndonji: Thank you, Mr. Speaker, Sir. I am throwing my weight behind this Bill as it addresses pertinent issues to do with public nuisances and it is very clear how it is going to deal with it. It states clearly that the County Government must maintain cleanliness and prevent nuisances.

Mr. Speaker, Sir, another major reason I am supporting this Bill is because of its cross cutting nature. A number of times we have heard of buildings collapsing and according to me, those are public nuisances. I say it is cross cutting because it also addresses how buildings are being put and even the sanitation in these buildings.

Mr. Speaker, Sir, just to ride on what the Hon. Chief Whip has said, it is very important for us to take note that we shall not only be having the medical officer of health but also a public officer of health who will mostly be charged with the duty of looking into public and environmental health.

Mr. Speaker, Sir, the Bill also states clearly the penalties against perpetrators of public nuisance.

Mr. Speaker, Sir, when we talk about demolition of unfit dwellings, it means that we must ensure that our people live in safe places where they are not vulnerable to any hazard. On a number of occasions, there are buildings springing up yet they are not as per the county plans. This results into the sprouting up of unsafe buildings that end up collapsing.

Mr. Speaker, Sir, as I conclude, I must say that this Bill also addresses the damages and destruction of any tree, flower or any type of plant that is along public streets. I think this will give beauty to the County and we are going to move towards the right direction. I support.

Hon. Speaker: Yes, Hon. Zilpa.

Hon. Awino: Thank you, Mr. Speaker, Sir. I want to add my voice in support of this Bill. On page 21 of 42, under rules. Section 29(h) talks about the subdivision and general lay out of land intended to be used as building sites. The level of construction numbers, direction and width of streets. I think this is going to get rid of the half hazard way that buildings are put up in our County. If you walk around Siaya, you will find that people build the way they want; there is no order at all.

If this Bill comes into effect then we shall have planned estates in a town like this or in Ugunja or Bondo and they will designate the kind of structures or buildings that should be put up in specific places so that our County will look orderly and even beautiful as has been stated. Thank you.

Hon. Asewe: Mr. Speaker, Sir, I would also like to add my voice on the same, being a Member of the health

Committee, we did a lot of research and consultations and I think if there is any area that is remaining, the board and the office of directors will finalize but generally the Bill is ok and I think it will manage all the requirements. We have heard several cases where buildings are coming up and are supervised by the relevant authorities and after that they say that the buildings are on road reserve when the public has spent a lot of money putting up the buildings.

This Bill will help us reduce on cases like that because once you have come up with a building, you have spent on it; maybe it was from a loan that you secured from a bank or your retirement benefits then when it is put down because it is on a road reserve, it actually traumatizes the owners. When you go into details you find that the relevant authorities have been supervising and passing it. I support the Bill.

Hon. Agoko: Thank you, Mr. Speaker, Sir, I want to add my voice in the support of this Bill that it be passed and be enacted. When you look at the section that talks about demolition of buildings that are deemed to be unfit for human habitation and you realize many of our residents live in buildings that could be inhabitable and should be advised and guided to move out of them for demolition.

The Bill also stipulates certification before buildings are erected and this will give control and guidance in the planning of our towns. It stipulates control and demolition of breeding sites of mosquitoes. It clearly stipulates that areas that are deemed to be breeding sites for mosquitoes, the owners shall be ordered to clear such areas to reduce prevalence of mosquito bites that lead to malaria and even owners of gutters that are deemed to

be holding water will be ordered to perforate them to enable free flow of water to reduce breeding of mosquitoes.

It also talks about control of unwholesome food and this Bill talks about control of the same. I urge my colleagues to support.

Hon. Abayo: Thank you, Mr. Speaker, Sir, I look at the size of this Bill and I have also tried to go through the particular Bill and I want to concur with other Members that this particular Bill will go a long way in addressing a number of issues that possibly as a County, we have not been able to effectively handle. This is a component of the public health Bill and to be very specific; if you go through, there are a number of other national legislations that need to be read together with this particular Bill because there are a number of provisions.

CAP 2 of public health clearly talks about this particular Bill and we are therefore handling a Bill that has borrowed heavily from a national legislation and we want to appreciate the health Committee and to try to domesticate and clearly bring down the bigger thinking as regards Siaya County. A number of things have been raised with administration on health and we can see the creation of two offices.

Before I move to that, even in our own finance Bill, there are a number of areas we have suggested penalties and we have never put very clearly how this would be handled. By putting this particular Bill in place, there are regulations that touch on a number of areas and the office of public health and the medical services.

We have always talked about boards, boards that have not even been put in place. This Bill talks about a central board, a management board, it also talks about sub county health management

boards and I would be thinking that we would be pursuing this before we get to any amendments whether there will be need to also look at how strong our administration or management of health at Ward level is going to be.

We know every health facility should have a management committee that we can strongly be able to handle issues of health and we shall also be keenly looking at how those boards, I as the MCA for West Gem; how will the Members of this House position themselves that they would never at any time be saying I don't know what's going on in that health facility. As the structure and the roles, the requirements have been laid out. I am sure we shall not just be creating institutions but the Bill also specifies the requisite qualifications for those positions and I think that would be very okay.

Part three, talks about sanitation and housing; a number of us have talked about housing, a big challenge on how buildings start. We end up having slums, looking at issues of sanitation and this particular area talks about what really constitutes public nuisance. We would then not be saying we are ignorant about what causes nuisance and that has been highlighted, now how do we handle that? On provision of food stuffs, regulations on how the building for storage of food and even where food is actually made and the conditions, we usually talk of public health inspection.

This has well been captured and we believe in terms of quality, in terms of hygiene.

I am sure that this particular Bill will address those particular issues as exposed in this particular Bill. Of interest is on public water supply; these are avenues through which people easily get

contamination and we are now looking at a Bill that will clearly specify what our sources of water are.

I have walked through this particular County, a number of places and I am glad that I have gone to every Ward in this County and we look at the water sources. Some areas are quite disadvantaged and if we are not going to take very serious note on how we handle issues of water, food and particularly milk and meat, in some of these areas animals die and the community just prey on them without any inspections.

We would not really need to be labor so much on this because these are provisions that have existed, I am happy we are taking control to say as a County we want to move forward. In the general provision in this particular document, even the management, we have nursing homes just coming up being handled by quacks because people want to do business. With the enactment of this Bill, we shall be sure of the quality of a nursing home or a health facility coming up on the private hands.

We have seen in this Country where clinics come up and the people managing them don't even have the requirements. I am sure we are giving teeth to the personnel to be able to look at all these issues; look at our markets, latrines in those particular areas that our citizens, the residents of Siaya should remain as safe as possible. I support.

Hon. Owii: Thank you very much, Mr. Speaker, Sir, it is like my colleagues have said this is one Bill that would have seen the light of the, maybe in our first or second year in this particular House. It is seriously over delayed, how I wish we could pass it as early as yesterday.

There are issues that we have seen when we move around, for instance of

nuisance in how we treat food vendors. In Bondo, chicken is just sold by the road side and the way you see that chicken openly put just take care of any other thing that would contaminate it is ridiculous because anytime I go to Bondo I always ask myself, are these things meant for consumption? They are just exposed to anything that can easily contaminate them and make our people get diseases like cholera which was mentioned earlier.

This Bill will change the face of Siaya; we have been doing things traditionally. If you go through our budget, you will find that we are putting a lot of money in digging of dams, digging of water pans yet these are waters that we cannot control and manage such that they can easily be used by our people for domestic consumption and we continue putting money in those kind of arrangements and if at all there is a Bill or a law to put some control.

We shall now leave those open waters like the pans, the dams and maybe drill water from the ground which of course can be controlled at a place where our people will be drawing it. I think this one will also put some control on some kind of diseases like cholera which can easily contaminate our waters and eventually cause water borne diseases.

I wanted to say that I have been to other places, the issues like prevention and destruction of mosquito breeding ground is a common issue now. If you go to Homa bay, you will find they are working on it now but here we are just providing mosquito nets and yet you cannot be in a mosquito net when you are having your meal.

If at all we make this Bill see the light of the day then there will be changes, there will be a reduction in diseases like

malaria. Our people will address malaria better than cure it, i.e. there will be a mass way of destruction of mosquitoes in places where they are breeding. Lastly we have many places that are coming up as small towns. Take places like beaches; we have people that are living there for their whole lives, won't go back to their native homes and they don't even have cemeteries.

This Bill can make us establish one; the whole of Siaya I have never heard of a cemetery and if at all there is one, its only me who is actually aware of the same but we need to have them now because people are now moving and establishing themselves in those places like the beaches.

We have so many people that stay there permanently and when one dies is when you will always find that there is no designated place where they will be taken for burial, you need to have a place where you can bury them but we have not actually given provision on the same in terms of cemetery. I believe that this Bill has more than what we thought was public nuisance.

We only thought that public nuisance is just some noise, this is more than noise. People are building houses anyhow but I think there will be some order when this Bill sees the light of the day because anytime one wants to build, there will be some criteria which of course you have to go through which will give you an opportunity of building at the right place and not a place which would later be destroyed simply because you decided to put it there.

I want to say that, this is one Bill that if you read through, there is a lot more than meets the eye. I would wish to say that this House should make this particular Bill see the light of the day. I support.

The speaker: May I call the Mover to reply.

Hon. Were: Mr. Speaker, Sir, I will appreciate the contributions that Members have presented in this House. Allow me to commend this County Assembly and its leadership for facilitating the Health Committee in establishing the public nuisance Bill and what remains is to adopt the Bill. Among the 47 Counties, we are going to be the first to work on the Bill and adopt Bill into an Act.

The Bill is all about sanitation and hygiene, it's an Act of the Siaya County Assembly that regulates public nuisance, air pollution, cemeteries, crematoria, solid and liquid waste, regulates housing, entertainment amenities, passage ways in residential areas; it establishes administrative and enforcement unit and it is good enough that all we shall have to work for is compliance to the Act. It prescribes penalties for the offenders. I thank you very much for your contributions this afternoon.

(Question put and agreed to)

(The Siaya County Nuisance Bill, 2015 read a second time)

MOTION

ADJOURNMENT

There being no other business this House adjourns until next week 9th Tuesday August, 2016 at the Chamber at 2.30 p.m.

The House rose at 3.24 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 9TH AUGUST, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

Hon. Deputy Speaker: Hon. Members, I have a letter from the Office of the Secretary and Siaya County Government Head of Public Service. It is addressed to the Chairman of Public Accounts Committee on the financial statements of SIBO Water and Sanitation Company Limited for the year ended 30th June, 2015. I forward it to the Committee for further action.

Next Order!

PAPERS

REPORT OF THE GOVERNANCE AND
ADMINISTRATION COMMITTEE ON THE MAU
MAU VETERANS ASSOCIATION PETITION

Hon. Aduor: Mr. Deputy Speaker, Sir, allow me to lay the following document on the Table of the House:-

Report of the Governance and
Administration Committee on the Petition
from MAU MAU Veterans Association.

*(Hon. Aduor laid the document on
the Table)*

REPORT OF THE COMMITTEE ON DELEGATED
LEGISLATIONS ON THE INTENTION TO
ESTABLISH THE OFFICE OF PROTOCOL
OFFICER AND GOVERNOR'S ADVISOR ON
AGRICULTURE

Hon. Okello: Mr. Deputy Speaker, Sir, I also wish to lay the following Paper on the Table of the House:-

Report of the Committee on
Delegated Legislations on the intention to
establish the office of Protocol Officer and
the Governor's Advisor on Agriculture by
the County Public Service Board.

*(Hon. Okello laid the document on
the Table)*

Hon. Deputy Speaker: Any other Paper to be laid? If there is none, then let's move to the next Order.

NOTICE OF MOTION

Hon. Deputy Speaker: Any notice of Motion? Hon. K'awuor.

Hon. Aduor: Mr. Deputy Speaker, Sir, I just wanted to lay the Report. I'll probably give notice of the Motion tomorrow because I have not seen the report from the House Business Committee.

Hon. Deputy Speaker: Ok. That's fine. What about you Hon. Okello?

Hon. Okello: Mr. Deputy Speaker, Sir, I need to briefly consult with the Clerk-at-the-Table.

*(Hon. Okello and the Clerk-at-the-
Table consulted)*

Mr. Deputy Speaker, Sir, I have
since been advised that the Report---

Hon. Deputy Speaker: Ok. Next Order!

BILL

The Siaya County Carriage of Food Bill,
2015 (Bill No.5 of 2015)

2016 SIAYA COUNTY ASSEMBLY DEBATES

Second Reading

*(Continuation of Debate interrupted on
Wednesday, 3rd August, 2016)*

Hon. Deputy Speaker: Hon. Members, this is a continuation of the debate interrupted on Wednesday, 3rd August, 2016. The question had been proposed. Members can now react to the Motion.

Hon. Oriaro: Mr. Deputy Speaker, Sir, allow me to enquire on something. I thought we were to handle the Siaya County Public Nuisance Bill, 2015 at the Committee of the Whole House.

Hon. Deputy Speaker: We are dealing with what is in the Order Paper. We cannot handle the Public Nuisance Bill yet it is not in our Order Paper today.

Hon. Oriaro: That's why we were quiet. On a point of order, Mr. Deputy Speaker, Sir; as unkempt as he is, is it appropriate for Hon. Asewe to be in the House? Look at his head, very shaggy!
(Laughter)

Hon. Deputy Speaker: Hon. Oriaro, you are out of order!

(Laughter)

Hon. Oriaro, can you go out and dress appropriately!

Hon. Oriaro: But, Mr. Deputy Speaker, Sir...

Hon. Deputy Speaker: Hon. Oriaro, I am giving you two minutes to go and dress well.

(Laughter)

Hon. Muhulah: The hunter has now become the hunted.

(Laughter)

(Hon. Oriaro walked out of the House)

Hon. Deputy Speaker: Where is the Chairperson of the Committee on Health Services?

Hon. Okite: Mr. Deputy Speaker, Sir, this report was moved last week and today we are supposed to just debate on it.

Hon. Deputy Speaker: That is why I want the Chairperson to make a brief contribution on the report before I allow other Members to say anything. It would be quite appropriate if the Chairperson can give the opening remarks; but in his absence, the vice Chairperson or any other member of the Committee can say something.

(Loud consultations)

Hon. Muhulah: Hon. Deputy Speaker, in the absence of the Chair and any other Member of the Committee, who can move it, I propose that the Motion be withdrawn from the Floor. I ask Hon. Osuri to second.

Hon. Deputy Speaker: Order! Hon. Muhulah, that is not in order! The Motion had been moved and a question had been proposed. All Hon. Members can now contribute. It is not restricted to only the Chair and Members of the Committee.

Hon. Oriaro: Mr. Deputy Speaker!

Hon. Deputy Speaker: Hon. Oriaro, you are out of order! As I was saying, debate on the report is not restricted to only the Chair and Members of that Committee; but it would be quite appropriate for us to give Members of that Committee a chance to highlight on what is in the document and give us a general overview of the Bill.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Migaya: Thank you, Mr. Deputy Speaker, Sir. I am very happy that in front of me is the vice Chair of the Health Committee and I am sure she will do the necessary. Thank you.

Hon. Oriaro: Mr. Deputy Speaker, let me open the Floor!

Hon. Deputy Speaker: Hon. Oriaro, you are out of order! You know very well that you must be given a chance to speak; you don't behave like you are in a public *baraza*!

(Laughter)

Yes, Hon. Maurey!

Hon. Asewe: Thank you, Mr. Deputy Speaker, Sir. The Siaya County Carriage of Food Bill, 2015 has gone through all the necessary steps before getting to this stage. It has been taken to experts in that field; all the necessary amendments have been done and we are sure that if this House passes it, it will be of great benefit to the County.

Mr. Deputy Speaker, Sir, it is a fact that if you pass through towns such as Siaya and Bondo, you will find food being sold in open air without taking into consideration any proper health guidelines. With this Bill in place, some of these habits will be dealt with and the handling of food will be properly guided. Thank you.

Hon. Andiego: Mr. Deputy Speaker, Sir, the Siaya County Carriage of Food Bill, 2015 is a very important Bill that ought to have been passed long time ago. We know of diseases like cholera which are as a result of poor hygiene. Recently there was a cholera outbreak in parts of Alego which are represented by my good friend, Hon. Oriaro. My place was also affected. Untidiness is the major

cause of this outbreak. This Bill will most definitely enable us reduce the spread of such diseases.

Mr. Deputy Speaker, Sir, on your way to Bondo, just after the Bondo Police Station, you will find food like *kuku choma* just being sold along the road. I believe that this Bill will control the selling of food along pathways and come up with designated areas where food should be sold.

Mr. Deputy Speaker, Sir, looking at the mood of the House and how reluctant Members are in debating this Bill---

(Laughter)

I would urge you to simply ask the Mover to reply.

(Laughter)

Hon. Deputy Speaker: I would have done that but I have seen quite a number of Hon. Members on their feet; an indication that they want to contribute. Yes, Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Deputy Speaker, Sir. I would have easily disagreed with Hon. Andiego because whatever he says is 'ultra-virus' (sic) this proposed Bill.

Hon. Deputy Speaker: Did you say ultra-virus?

(Laughter)

Hon. Oriaro: Indeed. It is outside the context of the Bill.

Hon. Deputy Speaker: The word you are looking for is 'ultra vires' not what you just said.

(Laughter)

Can you proceed!

(Laughter)

Hon. Oriaro: It is a legal term. It is your language. Mr. Deputy Speaker, Sir, the consumption of traditional brews was legalized by a national legislation and because it is part of our culture, it was easily underscored in the 2010 Constitution of Kenya. What has been lacking is the issue of quality and I talk about chemical consumption, for instance alcohol. We all know that methanol has caused havoc to members because it is more or less an industrial product. With this Bill, Hon. Chair, it would be easy for a County Government of Siaya in the best interest of our people to have a proper tool to do with inspection away from the Kenya Bureau of Standards.

The issue of composition of those brews can be easily checked if they are within limit; more so in the avoidance of the consumption of methanol which causes blindness. When we move around, you would be surprised that most of our ladies and a few men are more like Europeans, merely because of use of chemical cosmetics. These cosmetics come from our shops and the interest of those who sell them is to make money, to do business, they don't care about the content. Later on, we see the bodies of our own, the consequences are obvious, and some of them are deformed forever.

With this Bill, those who are out to sell chemicals in the name of cosmetics for consumption by members of Siaya public will face the full force of the law. Leave alone jail terms, even issues of considering taking financial burden over the reconstructions that can arise from such. Long time ago, in South East Alego, a family lost 15 of its members. In a funeral, it was later learnt that it was due to consumption of meat that was infected with anthrax.

With this Bill, the veterinary sector initially was in the National government and even others of inspection; we shall have a tool towards their guidance so that all the meat we consume; that is beef, poultry, fish, pork and mutton will be inspected before they are sold anywhere. With all those few remarks, this Bill is highly ideal for use by Siaya County, I support the report.

Hon. Deputy Speaker: Any more contributions?

Hon. Osuri: Thank you, Mr. Deputy Speaker, Sir; I am on my feet to support this Bill. Food is a very important commodity that needs to be protected. We have had a number of cases of food poisoning; if it is just sold anyhow, there are high chances of food being poisoned, particularly if some members target certain people. We have had a lot of contamination of food stuff that end up leading particularly to water borne diseases and other diseases in the areas where they are being sold. You find certain food stuffs being sold along the roads in dusty places especially the bus parks.

We need to ensure that the health inspectors, particularly the public health officers need to inspect the personnel handling the food and license them and also inspect the premises where these foods are being sold. In case we have such a Bill, we would have control of how our food stuffs are being handled. Sometimes you find young children from the lower classes, when they rush to such premises not knowing the implications. It's high time we had such a Bill and I support it that it be in place and be effectively administered so as to control the outbreaks of such diseases and control the health of our people, thank you.

Hon. Muhulla: Thank you, Mr. Deputy Speaker, Sir; I wouldn't belabor much on what my fellow Hon. Colleagues have said but this Bill wouldn't have come at a better time. It comes out very distinctively that the Bill proposes an establishment of a board; a board that will be charged with the powers of regulation and the powers of inspection. A lot of calamities and even lives have been lost in this County for lack of inspection and regulation, the core principle theme in regulating the issue of food carriage.

Many a times, we get that animals are slaughtered in areas that are not hygienically approved or even if the slaughter house is there, they go without inspection in line with the hygiene hence causing a problem because of the contamination of the food.

Another very big aspect that comes out here is that the board will be charged with, through this Bill, is the issue of food labeling that many a times the manufacturers would masquerade as mineral water. Mineral water are made from points that you cannot even trace and know the source, they are made under conditions that if you see then you cannot even want to take that water.

The issue of food labeling is so critical because many a times people would go and start manufacturing foodstuffs, more so the drinks, juices and water without conforming to the chemical prescriptions required for those foods that are packed to remain fresh till they are actually consumed.

Bringing each and every food with the standard that is required, as much as we don't have standardization experts, we shall be forced to compare those ones with the standardization organization of the Kenya Bureau of Standards of this

Country. The deception where most people would bring different things from what actually they intended to have been given and this has caused a lot of problems especially in drinks, especially alcohol. The drug control where some drugs are supposed to be controlled, you will get this drug being dispensed carelessly on the counter without prescriptions.

This will bring a lot of prohibition on these sales hence controlling our youth in consumption of this drug. The issue of cosmetics, we have a lot of things especially the issue of influx, with all due respect to our Hon. Lady Members. There are pallets that are coming, that our ladies from this Country are fond of swallowing to change their complexion.

These things come illegally without any control, once such things are brought to the Country, then we open ourselves to that standardization that I mentioned earlier and the control of the influx hence, of course safeguarding our sisters from these damages that are coming because of the additives in preparing the cosmetics.

The prohibition comes here very clearly on what is supposed to have been given in line with also vices and devices that can affect the medical health of humanity. These things need to be regulated and this Bill would not have come at a better time other than now. For that case, I do stand to support.

Hon. Deputy Speaker: in the absence of contributions, I wish to call upon the Mover to reply.

Hon. Were: Thank you, Hon. Deputy Speaker, Sir, allow me to take this chance to thank the Hon. House for their lively contributions. There is a presentation that has been done quite actively from very informed positions. The

2016 SIAYA COUNTY ASSEMBLY DEBATES

Siaya County Carriage of Food Bill, 2015 is an Act of the County Assembly of Siaya that makes provision for the prevention of contamination and adulteration of food, drugs and chemical substances. It also establishes administrative and enforcement units, it prescribes penalties for the offenders and it is a regulatory Bill that covers the manufacturer of drugs, food stuffs, cosmetics, also the packaging, sales, transport and premises within which the food stuffs are given.

I want to thank this Hon. House for tackling this Bill at the right time. The Siaya County Carriage of Food Bill, 2015 is not in isolation because it is domesticated. We have a National law under the public health Act CAP 242 that covers a myriad of Acts and this is just one of them, otherwise, thank you this evening for accepting to adopt this Bill that has

come at the right time and I know the mood is, we move, we domesticate and we adopt, thank you.

(Question, put and agreed to)

(Bill read a second time)

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, there being no other Motion and especially after exhausting the Order paper, the House adjourns until tomorrow 9.30am.

The House rose at 3.05 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 10TH AUGUST, 2016

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

[The Temporary Speaker (Hon. Muhula) in the Chair]

PRAYER

(Question, that Clause 3 be part of the Bill with amendments, proposed)

**COMMITTEE OF THE WHOLE
HOUSE**

(Question, that Clause 3 be part of the Bill with amendments, put and agreed to)

[The Temporary Speaker (Hon. Muhula)

Clauses 4 – 13

left Chair]

Hon. Were: Allow me to propose that:-

IN THE COMMITTEE

*[The Chairperson (Hon. Adida) in the
Chair]*

- a.) The statement ‘general nuisances to be deleted and replaced by ‘sanitation and housing’ then moved to part 3.
- b.) Part II to have administration of the Act as follows (Clause 4 – 13)

THE SIAYA COUNTY PUBLIC NUISANCE

BILL, 2015(BILL NO.10 OF 2015)

Clause 2

Hon. Were: Allow me to propose that the Siaya County Nuisance Bill, that the ‘arrangement of sections’ be deleted and replaced by ‘Arrangement of Clauses.’

(Question, that Clause 2 be part of the Bill with amendments, proposed)

(Question, that Clause 2 be part of the Bill with amendments, put and agreed to)

Clause 3

Hon. Were: Allow me to propose the amendment

(Question that Clauses 4-13 be part of the Bill with amendments, proposed)

(Question that Clauses 4-13 be part of the Bill with amendments, put and agreed to)

Clauses 14 – 16

- a.) The letter ‘C’ in the word ‘county’ to be in capital.
- b.) Insert the conjunction ‘and’ after semi colon at the end of the sentence

Hon. Were: Allow me to propose the amendments that Part III- Roads and Streets to be deleted and replaced by part iii – sanitation and housing.

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Question that Clauses 14-16 be part of the Bill with amendments, proposed)

(Question that Clauses 14-16 be part of the Bill with amendments, put and agreed to)

Clause 17

Hon. Were: Madam Chair, allow me to propose the following amendments on Clause 17:-

Clause 17 (a) be deleted.

Clause 17 (d) that reads ‘damages or destroys any tree, shrub, flower, plant or grass on land forming part of a public street’ be amended to read , ‘damages or destroys specially grown trees, floriculture and grass on land forming part of a public street’.

(Question, that Clause 17 be amended, proposed)

(Question, that Clause 17 be amended, put and agreed to)

Clauses 18 – 20

Hon. Were: Madam Chair, there are no amendments on Clauses 18 – 20.

(Question that Clauses 18 - 20 be part of the Bill, proposed)

(Question, that Clauses 18 – 20 be part of the Bill, put and agreed to)

Sections be part of the Bill

(Question, that Sections be part of the Bill, proposed)

(Question, that Sections be part of the Bill, put and agreed to)

Miscellaneous

Hon. Were: Madam Chair, allow me to propose that ‘Part IV-Miscellaneous’ be deleted and replaced by, ‘Part IX-Miscellaneous provisions’.

(Question, that the ‘Miscellaneous’ be amended, proposed)

(Question, that the ‘Miscellaneous’ be amended, put and agreed to)

Provisions to be added

Hon. Were: Madam Chair; allow me to propose that the following provisions be added; Saving of Cap. 242,254 and Cap. 245.

(Question that the ‘provisions be added’, proposed)

(Question, that the ‘provisions be added’, put and agreed to)

Schedule

Hon. Were: Madam Chair; allow me to propose that the ‘Schedule’ be amended to read ‘Schedule 1’.

(Question, that the ‘Schedule’ be amended to read ‘Schedule 1’.proposed)

(Question, that the ‘Schedule’ be amended to read ‘Schedule 1’.put and agreed to)

Title

(Question, that the ‘Title’ be part of the Bill, proposed)

(Question, that the ‘Title’ be part of the Bill, put and agreed to)

Clause 1

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Question, that 'Clause I' be part of the Bill, proposed)

(Question proposed)

(Question, that 'Clause I' be part of the Bill, put and agreed to)

(Question put and agreed to)

(Bill to be reported with amendments)

(Applause)

Hon. Were: Madam Chair, I beg to propose that this Committee do Report to the House its consideration of the Siaya County Public Nuisance Bill, 2015 and its approval thereof with amendments.

Hon. Were: Mr. Temporary Speaker, Sir, I beg to move Siaya County Public Nuisance Bill, 2015 be now read a third time.

(Question proposed)

(Question proposed)

(Question put and agreed to)

(Question put and agreed to)

(Bill read for a Third time)

(The House resumed)

MOTION

ADJOURNMENT

[The Temporary Speaker (Hon. Muhula) in the Chair]

Hon. Adida: Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole House has considered the Siaya County Public Nuisance Bill, 2015 and approved the same with amendments.

The Temporary Speaker (Hon. Muhula): Hon. Members, there being no other business, this House stands adjourned until this afternoon, 10th August, 2016 at 2.30 p.m.

Hon. Were: Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee in the said Report.

The House rose at 9.53 a.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 10TH AUGUST, 2016

The House met at the County Assembly Chambers, at 2.30 p.m.

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER

**COMMITTEE OF THE WHOLE
HOUSE.**

*[The Deputy Speaker (Hon. Adera) left the
Chair]*

IN THE COMMITTEE

*[The Chairperson (Hon. Madialo) took the
Chair]*

THE SIAYA COUNTY CARRIAGE OF FOOD
BILL, 2015 (BILL NO. 5 OF 2015)

(Loud consultations)

Hon. Chairperson: Hon. Members, we are now in the Committee of the Whole House and we want to look at the Siaya County Carriage of Food Bill, 2015.

(Loud consultations)

Order, Hon. Members!
Clauses 2, 3,4,5,6,7,8,9, 10

Hon. Were: Mr. Chairperson, allow me to propose that Clauses 2 – 10 be amended as was yesterday adopted in the Committee report. Thank you.

*(Question, that Clauses 2, 3,4,5,6,7,8,9,
10 be amended as per the Committee
report, proposed.)*

*(Question, that Clauses 2 -10 be amended
as per the Committee report, put and
agreed to.)*

Title

Hon. Were: Mr. Chairperson, allow me to propose that the Title ‘Siaya Carriage of Food Bill, 2015’ be amended and be replaced with ‘Siaya County Food, Drugs and Chemical Substances Bill, 2015’.

*(Question, that the Title be amended,
proposed.)*

*(Question, that the Title be amended, put
and agreed to.)*

Clause 1

Hon. Were: Chairperson, allow me to propose an amendment on Clause 1 of this Bill by deleting ‘An Act of the County Assembly of Siaya to provide for the hygienic handling and carriage of open food and for connected purposes, be replaced by ‘An Act of Siaya County Assembly to make provisions for the prevention of contamination and adulteration of food, drugs and chemical substances and for matters incidental thereto and connected therewith.’

*(Question, that Clause 1 be amended,
proposed.)*

*(Question, that Clause 1 be amended, put
and agreed to.)*

Short Title

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Were: Mr. Chairperson, allow me to propose that the Short Title of this Bill be amended and the sentence ‘This Act may be cited as the Siaya County Carriage of Food Act, 2015 and shall come into operation upon assent by the Governor, be replaced by ‘this Act may be cited as the Siaya County Food, Drugs and Chemical Substance Act, 2015 and shall come into operation upon assent by the Governor.’

(Question, that the Short Title be amended, proposed.)

(Question, that the Short Title be amended, put and agreed to.)

Hon. Were: Mr. Chairperson, I beg to propose that this Committee do report to the House its consideration of the Siaya County Carriage of Food Bill, 2015 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Hon. Deputy Speaker (Hon. Adera) in the Chair]

Hon. Deputy Speaker: Hon. Chairperson!

Hon. Madialo: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole House has considered the Siaya County Carriage of Food Bill, 2015 and approved the same with amendments.

Hon. Deputy Speaker: Hon. Chairperson for Health Committee, Hon. Were.

Hon. Were: Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee in the said report.

(Question proposed)

(Question put and agreed to)

Hon. Were: Mr. Deputy Speaker, Sir, I beg to move Siaya County Carriage of Food Bill, 2015 be now read a third time.

(Question proposed)

(Question put and agreed to)

(Bill read for a Third time)

MOTION

ADJOURNMENT

Hon. Deputy Speaker: Having exhausted the business that was in the Order Paper today, this House stands adjourned until tomorrow, Thursday, 11th August, 2016 at 2.30pm.

The House rose at 2.58 p.m.

THURSDAY, 11TH AUGUST, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER

(The Deputy Speaker and the Clerk-at-the-Table consulted)

NOTICE OF MOTION

**REPORT OF THE COMMITTEE ON
GOVERNANCE AND
ADMINISTRATION ON SUITABILITY
INTERVIEWS FOR THE DEFUNCT
LOCAL AUTHORITIES STAFF
SECONDED TO THE COUNTY
GOVERNMENT**

Hon. Awuor: Thank you so much, Mr. Deputy Speaker, Sir, I rise to give a notice of Motion that this House adopts the Report of Committee on Governance and Administration on the Suitability interviews for the Defunct Local Authorities Staff Seconded to the County Government of Siaya laid on Table of this House on Tuesday, 9th August, 2016.

MOTION

Hon. Awuor: I rise to give a notice of Motion:-

THAT this House adopts the Report of Committee on Governance and Administration on the Suitability interviews for the Defunct Local Authorities Staff Seconded to the County Government of Siaya. Mr. Deputy Speaker, Sir, the Committee on Governance and Administration have the

honor and privilege to present the Report on suitability interviews for the defunct local authority staff seconded to the County Government of Siaya pursuant to Standing Order 192 of the County Assembly of Siaya and the County Government Act, 2012.

After the dissolution of the Transitional Authority as stipulated under the Transition to Devolved Government Act, 2012 Section 37 (1);

“The Authority shall stand dissolved three years after the first general Election under this constitution or upon the full transition to County Governments, whichever is earlier”

The County Public Service Board (CPSB) acting under the guidance of the County Government Act, Section 138(1) espouses that;

“...Any public officer appointed by the Public Service Commission in exercise of its constitutional powers and functions before the coming to effect of this Act and is serving in a county on the date of the constitution of that county government shall be deemed to be in the service of the county government on secondment from national government with their terms of service as at that date...”Resorted to undertake a suitability interview for all the Staff of the defunct local authority in a bid to:

2016 SIAYA COUNTY ASSEMBLY DEBATES

4. Facilitate the absorption of the defunct local authority staff into the County Government of Siaya.
5. Enable the re – designation of the staff of the defunct local Authorities in accordance with their academic qualifications, skills, capacity and work experience and;
6. Identify Human Resource gaps existing within the Siaya County Public Service establishment in a bid to improve the service delivery to the public, as well as effectiveness and efficiency of the service.

The suitability interviews were undertaken by the Siaya CPSB between 21st September 2015 to 26th September 2015 across all the six sub counties and 309 staff were interviewed. The Report of this exercise which forms the basis of this report was subsequently sent to the office of the Clerk of the County Assembly vide a letter Ref No. SYCNTY/PSB/SCA/VOL.2 (83) dated 22nd February, 2016 in accordance with The County Government Act 2012 section 59 (1) (d) which states that:

59 (1) The functions of the County Public Service Board shall be, on behalf of the county government, to—

- (d) Prepare regular reports for submission to the county assembly on the execution of the functions of the Board;

The report was consequently tabled in this Honorable House on Thursday 25th February 2016 at 2:30pm and stood committed to the Committee on Governance and Administration for scrutiny and critical analysis before reporting to this house for approval.

Acknowledgement

The Committee is grateful to the Siaya County Public Service Board for facilitating the Committee for the retreat to discuss the report, the Office of the Speaker, the Office of the Clerk and the secretariat of the committee for ably coordinating the activities of the committee and in making this report a reality.

It is my pleasant duty, pursuant to Standing Order 190(6), to present the Report of the Select Committee on Governance and Administration on the suitability interviews of staff of the defunct local authorities seconded to the County Government of Siaya, for consideration and adoption by the House.

INTRODUCTION

The Committee of Governance and Administration, in execution of its mandate which grants it authority to oversight the Executive as provided for in Standing Order 192 of Siaya County Assembly Standing orders, the Constitution of Kenya, the County Government Act among other relevant legal statutes reviewed the report and critically analyzed it to fulfill the objective of the exercise.

Mandate of the Committee

The Committee on Governance and Administration is created by Standing Order 192 read together with the Second Schedule of the Standing Orders and has mandate over and including but not limited to:

“Ensuring and coordinating participation of communities and wards in governance at local level, as assisting communities and locations to develop administrative capacity for the effective exercise of the functions and powers and public participation in governance at the local level”.

Specifically, the Committee is granted powers under Standing Order 192 (5) as follows:

S.O 192 (5)

“The functions of a Sectoral Committee shall be to-

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) study the programme and policy objectives of departments and the effectiveness of the implementation;
- (c) study and review all county legislation referred to it;
- (d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (f) to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (*Committee on Appointments*) ; and

(g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.”

Membership

The Committee comprises 11 Members as follows:

The Hon. Joseph Kawuor, MCA
- Chairman
The Hon. Joshua Osuri, MCA
- Vice Chairman
Hon. Peter Muhula, MCA
- Member
The Hon. James Munda, MCA
- Member
The Hon. Fred Ouda, MCA
- Member
The Hon. Nicholas Aneme, MCA
- Member
The Hon. Mary C. Ajwang, MCA
- Member
The Hon. Anjeline A. Odhiambo, MCA
- Member
The Hon. Anastasia Augo, MCA
- Member
The Hon. Sellah Okwako, MCA
- Member
The Hon. Kesia Siwa, MCA
- Member

Terms of Reference/Guidelines

The objective of the committee was to thoroughly scrutinize and critically review the report to assess its comprehensiveness in fulfilling the set out objectives and conformity with the law.

Meetings

On this matter the committee held three meetings and one retreat; the first was on 19th February 2016 where the CPSB made a presentation of the report highlighting the major issues that emerged during the exercises and the result of the exercises. The committee resolved that it was essential for the CPSB and the Committee to retreat for two days to discuss the issues in the report. Considering the inadequate financial capacity of the committee at that time which was adequately elaborated by the Chairman, the CPSB committed to sponsor the retreat considering the urgency of the matter.

The second and third meetings were held on the 29th February and 4th of March 2016 where the committee identified the gaps within the report which formed the agenda of discussion at the retreat.

Finally, the committee and the CPSB conducted a two day retreat to Parkview Hotel in Kisumu on 11th and 12th of March 2016 which was facilitated by the Siaya County Public Service Board to raise and address concerns of the committee so as to reach a consensual understanding of the gaps identified. All the members of the CPSB were present at this retreat.

Hon. Awuor: Mr. Deputy Speaker

I think there is a mix up in this document that I have, I just want to ask for a minute be

cause I am not seeing page 9.
Thank you.

[The Deputy Speaker (Hon. Adera) left the Chair]

[The Temporary Speaker (Hon. Okelo) took the Chair]

Procedure adopted

To adequately accomplish this objective, the committee resorted to documentary review of legal statutes and human resource policies guidelines and manuals to identify gaps within the report and meetings with the County Public Service Board.

The outcomes of the deliberations were expected to be: a critical analysis of the report on the suitability interviews which will inform the CPSB on handling the re – designation of the affected staff and improve service delivery to the public.

OBSERVATIONS

Upon scrutiny of the Report the committee has identified particular gaps stated below; majorly regarding deficiency of the law and logic.

Gaps identified in the report.

12. According to The County Public Service Board (CPSB) report on the suitability interviews of the Defunct Local Authority staff undertaken between 21st to 26th

September 2015, “...Each County Government is to decide on whether or **not** to absorb all or some of the employees according to the staff requirement of a particular County Government...”. The dangers with this statement, is that it is misinforming, confers on the CPSB blanket authority to dismiss seconded staff, and it is lacking in legal founding. The law provides as follows;

- The Constitution of Kenya 2010 Article 236 (b) on the Protection of Public Officers states that “... A public officer shall not be dismissed, removed from office, demoted in rank or otherwise subjected to disciplinary action without due process of the law.”
- County Government Act 2012 Section 138 (1) (b) states that “...the officer shall not be removed from the service except in accordance with the terms and conditions applicable to the officer as at the date immediately before the establishment of the county government or in accordance with the law

2016 SIAYA COUNTY ASSEMBLY DEBATES

applicable to the officer at the time of commencement of the proceedings for the removal;....”

- County Government Act 2012 Section 73 (3) further provides that “...If for any reason it is not necessary for an officer on secondment to remain seconded and the secondment period has not lapsed, the officer shall be entitled to revert back to the public office held before secondment...”

- Guidelines on management of public officers seconded to county governments published by the Public Service Commission (PSC) in March 2013 Section 2.2.1 (k) and(l) further stipulates that;

(k) Where there are no vacancies to redeploy officers, the officers may be retrained to perform other functions.

(l) If for any reason it is not necessary for an officer on secondment

to remain seconded, the particulars of the officer shall be forwarded to the Public Service Commission for further necessary action. Section 73(3) of CGA

13. On the Legal Mandate for absorption the CPSB in their report only mentions the County Government Act 2012 Section 138 and glaringly fails to mention the Urban areas and Cities Act, 2011Section 57 which states as follows:

57. (1) Every person who, immediately before the commencement of this Act was an officer, agent or member of staff appointed, seconded or otherwise employed by a local authority shall, on the commencement of this Act be seconded or otherwise deployed as may be provided by law.

14. On the handling of the Public Officers from the Defunct local Authorities, the CPSB in its report has failed to take cognizance of The Constitution of Kenya 2010, The County Human Resource Manual and the Guidelines on

2016 SIAYA COUNTY ASSEMBLY DEBATES

management of public officers seconded to county governments provided by the Public Service Commission (PSC) in March 2013 which is a very critical document in the exercise that the CPSB is seeking the approval to implement.

15. On the Categorization of Staff of the Defunct local Authorities; the CPSB has competently categorized the Officers in Salary Scale 1 – 9 as having been appointed by the PSC but fails to inform the Committee that the Second category of the employees under scale 10 – 18 were appointed by the Defunct Local Authorities under delegated authority from the PSC as encapsulated in the Repealed Local Government Act cap 265 section 114 which states “...A reference in sections 107 to 112 inclusive to the Public Service Commission includes, where the power to appoint has been delegated by the Commission to a local authority, a reference to that local authority...”

- The risk of not mentioning this will lead to a technical knockout of the second category of staff; scale 10 – 18 from enjoying the protection of Section 138 (1) of the County

Government Act 2012. Furthermore Section 138 (6) of the same act recognizes appointment by delegated authority and states; “....(6) Appointment of a public officer by the Commission includes appointment of a public officer on powers delegated by the Commission.”

16. Table 5 (Annexure 1) of the report provides details of 47 staff who did not attend the Suitability interviews, of these staff, the report clarifies that 25 have been absorbed by the County Assembly. On further scrutiny, the exact number that has been absorbed by the County Assembly is 29 this means that the CPSB could not accurately account for 4 members of the County Staff establishment yet it claims to have done a physical headcount in the Sub - counties between October 2013 and December 2013. The 4 members of the staff are:

- Kennedy Omondi Opiyo
- Odongo Stephen Otieno
- Otieno Daniel Omondi
- Okwaro Julius Oduor

The CPSB further states that 14 of the staff did not attend the interview and there was no reason given whatsoever for their absence. This matter should be looked into critically to avoid the cases of ghost workers existing in the County Payroll, especially the 14 employees who did not attend the interviews.

17. More disturbing is the fact that since the end of the Suitability interviews in August 2015, no effort had been taken by the CPSB to locate the employees who did not attend the interviews and conduct a suitability interview for them. It's only after the Committee first met the CPSB on 19th February 2016 at Siaya County Assembly Board Room 2, with regard to this report where the concern was raised, when the CPSB rushed to undertake suitability interview for the remaining 14 staff.
18. The CPSB in its wisdom has proposed a reduction of basic salaries of all seconded staff save for only 9 staff with the highest receiving an increment of Kshs. 5,222. The CPSB had done this by placing these employees in Job Groups that disadvantage their

remunerations an act in total disregard of the legal frameworks in this country. The law states;

- The Constitution of Kenya 2010 Article 236 (b) on the Protection of Public Officers "... A public officer shall not be dismissed, removed from office, demoted in rank or otherwise subjected to disciplinary action without due powers of the law..."
- The County Government Act 2012 Section 138.(1) espouses that "...Any public officer appointed by the Public Service Commission in exercise of its constitutional powers and functions before the coming to effect of this Act and is serving in a county on the date of the constitution of that county government shall be deemed to be in the service of the county government on secondment from national government with their terms of service as at that date and—

2016 SIAYA COUNTY ASSEMBLY DEBATES

a.officer's terms of service including remuneration, allowances and pension or other benefits shall not be altered to the officer's disadvantage

c. The officer's terms and conditions of service may be altered to their advantage..."

- The County Public Service Human Resource Manual Section B.22 sub – section (4) on Re – designation provides that; "...If a public officer is re-designated, the officer shall not in any way suffer reduction in remuneration..."
- Guidelines on Management of Public Officers seconded to County Governments provided by the Public Service Commission (PSC) in March 2013 Section 2.2.1 (a) states "...The officers of former local authorities deemed to be seconded to the county government public service shall continue with the terms and conditions of service they held before secondment including remuneration, allowances and pension or other

benefits which shall not be altered to the officer's disadvantage, but may be altered to the officers advantage (Section 138(1) of the County Government Act)..."

- Letter from SRC Ref: SRC/TS/CG/3/61/23 making reference to a circular Reference No. SRC/TS/CGOVT/3/16 dated 29th July 2013 that provided a remuneration structure for the County Staff after receiving staffing structure from the Transitional Authority which had been arrived at in consultation with representation from the counties clearly explicates that "... staff absorbed from the defunct local authorities and those from the national government should join the structure at the appropriate level of the salary scale in compliance with Section 138 of the County Government Act..."

19. The committee thus proposes two options to the CPSB after reviewing all these legal documents

2016 SIAYA COUNTY ASSEMBLY DEBATES

First is to place the staff in Job Group that will not disadvantage their remuneration, allowances and pension. (an appropriate level of the salary scale in compliance with section 138 of the County Government Act, 2012)

Second any difference that may accrue from the employees pay due to the placement in a job group that may disadvantage their salary MUST remain personal to the staff until the staff is promoted or appointed to a position that attracts higher pay.

20. In cases where the allowances earned at present are lower, they should be reviewed upward to the amount stipulated by the SRC for that particular Job Group; emphasis should be made on the Commuter allowance which was a standard rate of Kshs. 2,000 for all Local Authority Staff. However this will be picked automatically by the IPPD system according to the Job Groups.

21. House allowances must also be reviewed in congruence with the

Job Group that the present basic pay complements' and that the employee is placed and must be guided by the SRC Circular Ref No: SRC/ADM/CIR/1/13 Vol. III (126) dated 10th December 2014.

On the recommendation provided in the report the committee agreed as follows;

13. The salaries currently payable to the staff MUST remain personal to them until they are promoted or appointed to positions that attract higher remuneration.

14. All the staff who have shown evidence of enhancing their education by going back to various institutions of higher learning especially to pursue degrees and post graduate studies must be properly considered when doing this placement into job groups so as to encourage more staff to pursue their studies. This will improve efficiency and morale of the staff.

15. Fire and safety should not be a directorate but a sub – sector under the Roads and Public Works Department and the Board should recommend the construction of fire stations in all major towns in the county and one per sub – county to ensure timely response to fire outbreaks.

2016 SIAYA COUNTY ASSEMBLY DEBATES

16. The committee agrees with the re - designation of staff to comply with the IPPD however, re - designation should not in any way violate the legal provisions that have been cited above since this shall disadvantage the employee.
17. The committee also agreed that Revenue collection is not a totally accounts matter at times social workers and public relations officers are required and thus a mixture is necessary. However, the CPSB should concert its efforts on automation and enforcement, relevant training for the revenue collectors and managers and develop a thoroughgoing Revenue Enhancement Plan (R.E.P) to maximize revenue collection.
18. Recommendation (4) in the report on the deployment of staff other than skills, qualifications, capacity and work experience, due cognizance of the law must also be observed. In addition development of job descriptions for deployed staff is very critical and must be expedited immediately.
19. Early retirement, according to the committee is the initiative of the employee and not that of the employer thus the CPSB has neither the moral nor legal justification whatsoever to initiate the process and in any case the incentive should be made very clear to encourage the employee opt for early retirement.
20. The CPSB should consider development of a Recruitment policy that shall guide recruitment in the county as we have seen mass recruitment of staff with no clear objectives.
21. Before reshuffling of staff as stated in recommendation number 9 in the report, staff training and capacity building of the staff is to be first undertaken to build the staff skills.
22. Re – designation and proper placement requires the County Organograms for departments to be first developed and thus recommendation number 10 in the report should take this into consideration.
23. The last recommendation on unfair and unjust disciplinary procedure, the CPSB must provide a list of all these employees if it really conducted the Suitability Interview then it should know the employees they are making reference to.
The CPSB must not personalize the case of Ms. Grace Odero and her name must be among other names

of staff subjected to unfair and unjust disciplinary procedures. The CPSB should therefore insist on speedy conclusion of disciplinary procedures and rights of the employees to be observed. This is more objective than the

personalization as seen in this report.

24. The CPSB should also think of a County Staff Welfare Association to boost integration and morale of staff. This will supplement the employee's efforts in improving work place environments.

OVERALL RECOMMENDATION

Following the deliberations and analysis of the content and the format of the report, the committee refers back the Report to the County Public Service Board for re-drafting and incorporation of the proposals made by the committee and any other information that may be relevant to the report, and submit the improved report after a period of seven days after the adoption of this report.

The Temporary Speaker (Hon. Okelo): Hon. Jack Odinga.

Hon. Odinga: I think I am lost, because from the original document Hon. Chairman for Governance and Administration was reading at least I could follow now he is reading another document I'm lost completely. I don't which document he is reading because my number one is totally different from his number one. I don't know whether to go by mine or his?

The Temporary Speaker (Hon. Okelo): Hon. Chair for Governance would you like to clarify that?

Hon. Awuor: Mr. Temporary Deputy Speaker, Sir, the document I have has the signature of the Chairman and the date and also the signature of the C.O—

The Temporary Speaker (Hon. Okelo): Which page are you on?

Hon. Awuor: I'm on page 10.

Hon. Awino: I think you started confusing at page 8, I think he read up to page 8 then when he turned over the page it was page 10, page 9 is missing. Now he is reading another page 9 from elsewhere in this Report; that is what he was referring to. This is page 9 and it is signed by Lubalo on 15th July 2016 and this is under observation. Where you were supposed to continue from was also under other observations but a different one, there is confusion, there is a page missing.

Hon. Andiego: Point of Order!

The Temporary Speaker (Hon. Okelo): Yes, Hon. Andiego is it on the same matter?

Hon. Andiego: We have two different Reports.

The Temporary Speaker (Hon. Okelo): Hon. Okuku.

Hon. Okuku: Mr. Temporary Deputy Speaker, Sir, I wish that we adjourn temporarily and give the Chair time to rearrange himself so that we come back when we are in order because under this confusion I think people are going to be misled. I request Hon. Olasi to second that.

The Temporary Speaker (Hon. Okelo): Thank you, Hon. Members for the concerns, the chair would also like to confirm that the copy before me missed page 9 but that has been rectified through the assistance of the Clerks. If you want to confirm with the Chair for Governance, if indeed it's true that he needs more time to organize himself and present Members with a more coherent document. If he feels sufficiently endowed to continue with the document as it is.

Hon. Awuor: Mr. Temporary Speaker, Sir, I am not seeing any two documents, I think it's something that I asked for and I was given that time and I think I made that correction and that's why I'm telling Members that what is Here is signed by both of us but we can go back to start on page 8, if that is what Members want me to do and I will go back to start from page 8.

The Temporary Speaker (Hon. Okelo): Hon. Awuor, The chair rules that you proceed but pick it up from observation number 1 so that Members can follow from observation number one and be sure that Members follow from observation number one all through to the last observation. If they fail to follow then the Chair will determine what ruling to make on this very important Report that is before us.

Hon. Minami: Mr. Temporary Speaker, Sir, if you allow me.

The Temporary Speaker (Hon. Okelo): Hon. Minami.

Hon. Minami: I think before he continues it should be important that he confirms if all the Members have page 9 where the confusion arouse. If Members have page 9 because on my copy it's there, do they have number 9 where the observations are? Then how do we continue without it?

Hon. Apiyo: Mr. Temporary Deputy Speaker, Sir, the problem Here is that majority maybe 5% are having this Report, I would also request and join my colleague Hon. Okuku that we adjourn shortly for Hon. Members to get copies. Unfortunately, these copies were given out and the current staff could have communicated with him so that they can bring with them the Report for this

discussion this afternoon and this is where the problem is. So many people don't have this Report, they don't know which page we are on. Thank you.

The Temporary Speaker

(Hon.Okello): Hon. Apiyo, thank you for the contribution but I believe that Members were fully aware that this motion was coming up and most of them carried their copies, so Hon. Apiyo it's not right to insinuate that this Hon. House forgot its duties which is very rare, therefore, it is not right to say that Members do not have the report. I think the confusion at hand is on page nine as Members have rightly observed, so I want to give last opportunity on this to the chair of Governance to put up his case. Meanwhile I expect the Table clerks to organize so that all Members get page nine.

Hon Awuor: Mr Temporary Speaker, Sir. I think it will be fine if all of us are fond of what we have, so am requesting that you give us at least five minutes to allow us go together and clarify so that we can be on the same page.

The Temporary Speaker

(Hon.Okello): So do you need a few minutes or this be referred to another day?

Hon Awuor: Just two minutes!

The reason am saying we do not give another day is because this report affects Members of this County Government and there has been a lot of pressure from some of the staff. I want to plead with Members that having gone through and having corrected it, if given the two minutes Members will debate it.

The Temporary Speaker

(Hon.Okello): Hon. Members having listening to the concerns of this Hon. House as well as listening to justifications

from the chair, it is my observation that we continue with this debate after a short period of five minutes during which we expect the document to be completely coherent. Also Members who do not have copies at all should be supplied with the copies so that when we come back everybody has the full set of the document as it were.

Hon Members, as the chair has said, this is a very important document that touches directly on the lives of Citizens of Siaya and therefore should be taken seriously and reconvene after five minutes.

Hon. Minami: Mr Temporary Speaker, Sir before we go, you have made a declaration that those who don't have should get the copies which will not take five minutes. You had made an earlier ruling concerning what Hon. Apiyo verified that this document was distributed so whoever didn't carry and I even remember that the Hon.

Majority leader gave a two week program for us to have this report. I think it will not be fare for the Whole House if you say that only page nine should be made available but when you say that any other Member who do not have copies, then it means that we are adjourning for the whole afternoon. We want to come back because photocopying this document is not easy and I believe around twenty Members do not have the document.

The Temporary Speaker

(Hon.Okello): Hon. Deputy Whip my ruling is still very consistent. I had ruled earlier on that Members of this Assembly do not forget the document and I still have that ruling and my declaration is that Members be supplied with page nine which is currently on going at the end in which the debate resumes. The five minutes I had given is also gone by three

minutes and the House resumes in two minute.

Hon. Olasi.

Hon. Olasi: Mr Temporary Speaker, Sir allow me to say that as the Deputy Whip as put it, it's true that over 50% of Members do not have the document me included as much as he is saying that we were given training for possibly two weeks. I believe as am seeing we have tampered with that time table which is true and in this House as you can see almost eight of us do not have the document.

This is a very important report as you had said earlier and therefore each and every one of us needs to have it even though you are saying that two minutes is gone and we are only remaining with three which will not be enough. It will be in Order for this House to be reminded that in the afternoon we have a certain report to discuss so that we can prepare because at times we are not even informed on which report we are going to discuss. I kindly ask that we adjourn this debate discuss another day, thank you.

(Applause)

The Temporary Speaker
(Hon.Okello): Hon. Olasi at this point the Temporary Speaker is now forced to be on his feet to make a final determination on this matter. Hon. Members both the issues being raised are quite weighty; one being on the importance of the subject at hand and secondly is on the ability of Members to participate coherently on this.

To rule on the first one that the point on which Hon. Jack Odinga rose was on the question of page nine and up to that point not a single Member questioned what was going on as far as this report is concerned.

So, the fact that this report is valid tabled and ready for debate and the debate was on going. I want to rule that that has been confirmed by Members and they have been able to follow this report up to the point that page nine was missing. Hon. Olasi on that point alone you are out of Order! Secondly, on the issue of page nine I believe all Members have been supplied with the page and I urge us to follow the debate, Hon. Chair for Governance pleas proceed.

(Hon. Awuor continued with the report from page eight onwards as informed on the document report.)

Hon. Aneme: Seconded.

(Question put)

Hon. Odinga: Thank you The Temporary Speaker, Sir. I just want to support this report based on the fact that these are staffs who have been serving and some of them have served more than thirty years. There was fear that coming in of the 2010 Constitution that some of them might go Home because this work was given to Transitional Authority and when it was leaving the job of transferring this workers was left in the hands of the County Government of Siaya.

I am looking at this report apart from one or two areas under observations where I think there was a small mix up. I don't whether the chair of that Committee just wanted to have quite a number of observations, because am looking at observation six and seven as constituted in one observation. If you look at the last statement which says that the numbers runs as follows; my expectation was that after that then I would see the observation given in number seven as part of number six.

Some of this staffs are also having their salaries pending because they have not been properly placed in any office while some of them have even better qualifications. After the promulgation of the new Constitution some of them realized the need for going back for other better professional papers. I believe that

most of them have good papers that when it comes to placement they can even get to better positions. If you look at some of their pay slips those who were employed as Revenue collectors you find that they are still earning at the rate of Revenue collector while they are now at the Assembly performing a different duty.

For example some of them are secretaries as well as clerical officers but they are still being paid peanuts according. I don't know whether this Committee because I wish this report would have even come earlier. In the recommendation we are saying that this report should be adopted and acted upon by the County Service Board immediately. I don't know what budgetary implications it will have, but as a County Government we always have a window for supplementary budget such that it can be done before budget supplementary and then we factor it in during the supplementary budget considering its implications after adopting this report.

Otherwise apart from one or two things, it is high time we place these staffs where they belong. Thank you, Temporary Speaker, Sir.

Hon. Adera: Thank you, Temporary Speaker, Sir. I wish to add my voice to this report and had to disqualify myself from the seat because I didn't want to chair a report where am directly involved. Initially I thought that this report was as a result of the statement which I had made in this Assembly. However I was going through it and listening keenly to the mover I discovered that somehow it was touching on the same subject matter except that it is addressing the employees of former defunct Local Authorities while my question was based on general employees of County Government of Siaya.

However, having listened to the mover make his presentation I wish to congratulate the Committee for coming up with such report and I have seen some recommendations that they have put

forward. How I wish they would have recommended that the former employees of former defunct Local Authority be absorbed as permanent and pensionable employees of this County Government.

I have seen the list of those who are attached to County Assembly and I have a strong feeling that in their recommendations they would have included that their terms and conditions be improved and they be employed permanently. I want to believe that in similar report which will be coming here that they will incorporate that. However, it is important to know which people are employed in the County Government of Siaya. I have observed that some staff didn't show up for the suitability test and they did not make recommendation that head count be done. How I wish they also capture that, otherwise we will be having ghost workers in this County. Mr Temporary Speaker, Sir, with those few remarks I want to stop.

The Temporary Speaker

(Hon.Okello): Hon. Members if there no more contribution on this matter I wish to call upon

Hon. Andiego you like you want to speak on this matter.

Hon. Andiego: Mr Temporary Speaker, Sir. Indeed it's a good report because it has shown us how the Board reluctantly performs its duty. In many occasions if you read the first page of the report you see that there is this part where initially the Board could not account for four whom they didn't know where were and later after the report was taken to them is when they realized that this people were employed to County Assembly of Siaya.

There is also a calculation which was not balanced where there were 355 members of staff who were seconded to County instead 324 are the ones who appeared for the interview. I keenly looked into it and they stated very well that they could not show there where about and I wonder how this people were found alive and working after the report is taken back

and returned to us again. I would have like to request the chair of Governance to maybe clarify and say to us what was happening. Was it a problem of the Board? Was it a problem of the Transitional Authority? Was it just some poor oversight somewhere? Or was it that at the first time the Board was not doing their work right maybe due to lack of proper tools which they later got? Otherwise I do support the report because it is a report which needs to be implemented so that some of our brothers and sisters get what is due to them. We appreciate our brothers and sisters who have worked for all this time without pay and I believe that this time round they will get what is meant for them. I support. Thank you.

Hon. Apiyo: Thank you, Mr. Speaker, Sir; I want to contribute a few points. We have observed some issues in the Report. There were staff who were not productive. We can see that the Committee Members made an observation that the more productive officers should be properly placed and then used to recruit them. This means that there were some staff who they could not place as per their qualification by the time they went to give out the advert for the recruitment. I think the Committee was supposed to start with the local authority members.

We can also see there was an issue an age of limit. This was for the bracket of 50 years, these are people who could have retired. It is a big challenge, in the Committee Report you see majority of the local authority staff were nearer to retirement compared to the lower age which means those who had attained early retirement package were also observed here. I think these are some of the issues our able Chairperson could have really looked at so that we come out with a proper number. How many have attained the mandatory or the early retirement age

of 50 then from there, we could easily slot in the young tax or youth who are eager for employment.

There was also the issue of conflict of interest when for example you are in a station at Siaya, Bondo or Ugunja working in the same place for 8,10 or 12 years. This is where you will see people start to develop conflict of interest and later this is where the issue of corruption generates. So I think in the County Government, we should do something like the transfers between Sub – Counties, not having one staff work for 15 years in 1 station. I really support what the Committee captured here. This is the matter of corruption, when you work in a station more than 8 years running to 10 then you start developing conflict of interest.

There was also the issue of work environment. I think as a Member of this County, you always walk around when our sisters, brothers, mothers and even daughters do the cleaning in our towns. You see the poor condition they work in. They lack proper tools like the gowns, brooms and even the soaps they use after work to wash their hands are not there some of them are even working with slippers,. I can see the Committee was trying to capture and dwell on these things.

Another issue is revenue collection. In remote areas where a person collects revenue from the fishermen and he stills wants to retain this money running to one month. He is doing that every day. This is where we cannot reconcile or do proper tallying on how much was really collected.

These are also issue of use of illegal receipts. Somebody received a receipt in Akala and it is different from a receipt in Usigu. This is where we really wanted to use the modern ICT System, as

we had debated here earlier last week about ICT helping in the collection of revenue. As much as we are in a County we need to not be using the old system of receipts which also differs.

This also goes together with the security. Security should be enhanced at the revenue collection points. Look at a situation where somebody is holding that receipt and he is alone, he can decide to collect all the money and walk away with this money but when there are also security teams stationed at these points then we could be making sure he is collecting this money and reimbursing them back to the County.

There was also the issue of defunct local authority staff. We could see from the HR office they gave us a total of 355 and also there was a total number of staff who presented themselves for the interview which was given as 308. Meanwhile the local authority staff presented by the HR gave us a figure of 355. The discrepancy here I have captured is 47. Where are these people 47 people? I don't know if these are the ghost workers. They never dwelled on this thing so that they can know properly where the difference comes in. These 47 people are they working or they did not present themselves for head count.

The Temporary Speaker (Hon. Okello): Hon. Apiyo you have 2 more minutes.

Hon. Apiyo: Thank you Hon. Speaker, Sir; I will try to be a little bit fast. There was also the issue of numbers. They mentioned 324 people. I don't know the conflicts or I didn't understand. These people presented themselves for head count or were captured of which there was less of 26 people if you do your arithmetic

only 1 person died and 2 were retired. My question is, are these ghost workers or did they recruit people as per the Report which we can see here. Otherwise I stand to support. Only when the Mover of this Report replies I expect him to clarify further about these numbers.

The Temporary Speaker (Hon. Okello): Hon. Members in the absence of further contributions I call upon the Mover to reply but before he does that I give this opportunity to the Hon. Member for North Ugenya.

Hon. Omar: Thank you, Mr. Temporary Speaker, Sir, let me add two things to the good Report that we have been given by the Committee of Governance and Administration. In the work force if there is uncertainty the people cannot work well but the way the Report has been given and the way the Public Service Board can also implement, it means that the work force we have in Siaya County has no uncertainty and if there is no uncertainty it means the performance of the workers will be at high level and they will do their work with all of their heart.

Earlier on when they were taken and some people are not even placed in the right job group people work and they are not sure whether they will be here next month or next year. You will find that some people are working but their heart is not here this could lead to some people leaving without informing authority or just doing the work they are interested in.

Secondly I think through the research and through the interview done by the Public Service Board if they check the old reports of those people who have been taken by the County Government and they find that they were not suitable, then they expect the Public Service Board also to

follow the procedure of removing these people so that we have the right people that can do the right job. I think this will make the County to move in the right direction because you find people complaining that some of the people who were working in the local authority were not doing their work well or the people are “corrupt”. If such people are seconded in the County Government then the Public Service Board should follow the right procedure so that they can be removed in offices and the right people take these jobs so that the issue of corruption should not be there in the County Government. Thank you.

The Temporary Speaker (Hon. Okello): Hon. Chair for Governance.

Hon. Awuor: Thank you, Mr. Temporary Speaker, Sir, first and foremost I really want to apologize for the mix up that came up in the process of presenting this Report and I want to really thank Members for their sobriety in discussing this very important Report. Hon. Jack Odinga was wondering why is it that we mentioned the observation and environment in number 6 and 7. I think the difference is that in number 6 we were talking about the time taken in one particular place vs. the change of environment which is very necessary but 7 we were talking about tools that makes staff be comfortable to work in government so I just want to make that clarification.

On issues that have been raised by my good friend Hon. Apiyo Apiyo. I think in this document...

Hon. Odinga: Point of Order!

The Temporary Speaker (Hon. Okello): Yes Hon. Jack Odinga.

Hon. Odinga: As much as the Chair is responding I think he is

misquoting because what I said is in page 10 and he is not talking about the tools of operation. Allow me to compare number 6 with number 7...

Hon. Minami: I think you have given the Mover to reply, why don't you allow him to do so?

Hon. Odinga: That's why I said 'if you allow me to read'. If you don't I will not.

The Temporary Speaker (Hon. Jack Odinga) I believe you have raised your point. I ask the Mover to reply he should be able to take note of that and clarify. If there is need for any further clarification we will get back to you.

Hon. Awuor: Thank you, Mr. Temporary Speaker, Sir, I will talk about observation and I go back to it. I want to really appreciate Members for their contribution on this. I want Members to note that this is a Report that had come after another Report that was identified with us which this Assembly passed and sent to the Public Service Board.

We had already recommended here that this Report after we had properly analyzed it should be implemented by the Executive Human Resource immediately. Another recommendation is that the Report be sent immediately to the Public Service Board for the County Secretary and the Head of County Public Service Board, the CEC in charge, and Directors of Human Resource Management to have this implementation.

On the issue of numbers, we need to note that initially it was not clear from the Board and after our interjection the Board wanted that all the members of staff some of them are in the Assembly. Hon. Andiego had asked before who the 4 people are. Here is their names on page 10.

2016 SIAYA COUNTY ASSEMBLY DEBATES

1. Kennedy Omondi Opiyo.
2. Steven Odongo Otieno
3. Otieno Bernard Omondi
4. Julius Okoth Oduor.

These are our Members of the County Assembly so the Board could not find them the other side so that is a major step up and we informed them that they have been placed in the Assembly site.

This Report should have been dealt with long time ago because quite a number of our staff have really suffered. We should have done a recommendation that should have been made permanent and pensionable. That was the essence for the suitability interview. The interviews were done to place these members of staff to be absorbed meaning that they are going to be permanent and pensionable. I think that was very clear.

I want to go back to Hon. Odinga, you asked about the County Officers who were stated in your previous Report. On page 10 though it is confusing because there is observation and recommendation that is bringing confusion. Maybe Chair I think what I needed to respond to, I have done so. Those are areas that I did observe that Members did not get very clearly, so I want to thank Members and I want to urge them to support this Report. Thank you.

(Question put and agreed to)

(Applause)

MOTION

ADJOURNMENT

The Temporary Speaker (Hon. Okello): Deputy Whip.

Hon. Minami: Thank you, Mr. Temporary Speaker, Sir, having exhausted the agenda and considering the fact that from next week the Assembly will not be

on. All the Hon. Members will be going for KICOSCA/CASA games in Kiambu County I request that this House adjourns from today Thursday, 11th August, 2016 to Tuesday, 23rd August, 2016 so that Members are allowed to go and participate in those games. I call Hon. Elisha Okuku to second.

Hon. Okuku: I second.

(Question proposed)

Hon. Awuor: I want to support the Motion to adjourn that has been proposed by the Deputy Chief Whip. I just wanted to say that while at the games I am convinced the point is the Assembly could be working in the Committees so that they do some other Business there because the games don't go at night. I want to urge the House that as we propose postponement due to the games, games will not require the number of days that we are going to be there. I want to request that we also hold our meeting there after games.

(Applause)

The Temporary Speaker (Hon. Okello): Hon. K'awuor are you suggesting that the Committee work goes on at night in Kiambu. Is that what you are suggesting?

Hon. Awuor: Mr. Temporary Speaker, Sir, after games, Committees can meet and discuss at later hours and I want to call upon my good friend Hon. Aneme to second.

(Laughter)

The Temporary Speaker (Hon. Okello): Hon. K'awuor that is out of Order! Is there anybody who wants to speak again on this issue of adjournment?

2016 SIAYA COUNTY ASSEMBLY DEBATES

The main reason we are adjourning is so that we can participate in the sports, which for us to participate well, we need to do practice and exercise. So Hon. Members let's keep this brief so that we can proceed to practices.

Hon. Andiego: Thank you, Mr. Temporary Speaker, Sir, I am also on my feet to support the adjournment and I just want to clarify what Hon. K'awuor was saying that all of us will be there and we will also be having our clerks. All games can never go at once from morning to evening.

(Applause)

So we are requesting that while we are there and we are complete and whatever we have in plan as Committees we should carry on. I am urging the Chairs to communicate with the Clerks to carry

The Temporary Speaker (Hon. Okello): Hon. Members please give Hon. Sylvia an opportunity to make a contribution and Hon. Sylvia I wish to remind you that the matter of debate is the issue of adjournment and not the side shows that the Hon. Member for Yala was trying to bring.

Hon. Migaya: I was just lost actually I was a bit sleepy.

(Laughter)

Let me support. Please come back with trophies. That is actually what I meant. Thank you.

(Laughter)

The Temporary Speaker (Hon. Okello): Yes Hon. Aneme.

Hon. Aneme: Thank you, Mr. Temporary Speaker, Sir, I am up to say

attendance list so that we cannot stop because we are in game and we cannot go on with our daily routines. I also request Members that while we are there we know what takes us there we are going there as sports men kindly let us be sportsmen and women we make Siaya better than what it is. I am praying that we come back with all the trophies. Thank you.

(Applause)

The Temporary Speaker (Hon. Okello): Thank you Hon. Members I want to give this opportunity to Hon. Sylvia.

Hon. Migaya: Thank you, Mr. Temporary Speaker, Sir, I am only worried that when we will be in Kiambu, I wonder how will we make it because I wonder whether we will carry our mobile phones there, how will we meet.

that we should suspend the activities until we get back. The idea that comes in that we can carry our offices at the board room in Kiambu after the adjournment is captured is not in order. I know not all the clerks are going with us, so in a scenario where probably I am in Administration and Governance not every Committee will have their clerks there to sanction the meetings therefore I think this is a scenario that is going to bring bickering that such and such people are meeting and others cannot meet because they don't have staff and according to the schedules that we have made in all the Committees. I don't think the idea of carrying our offices there is in order. Some will be able to continue with their functions while others who are not there will not make it.

The Temporary Speaker (Hon. Okello): Hon. Aneme, I wish to remind you once again that the matter of debate is

the issue of adjournment. The issue of continuing with Committees is neither here nor there. Article 27 of our Standing Orders is very clear on the venues of meeting including Assembly meetings and for you to hold plenary elsewhere it needs to be fully gazetted. That is why I don't want unnecessary debate that is clouding an important Motion.

Yes, Hon.Ngure.

Hon. Ngure: Thank you, Mr. Temporary Speaker, Sir, for giving me a chance to make a contribution. I just thought that we are carrying this thing too far beyond what we have to speak about.

(Question put and agreed to)

The House rose at 3.56 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 23RD AUGUST, 2016

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

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

PRAYER

**COMMUNICATION FROM THE
CHAIR**

WELCOME FROM RECESS

Hon. Members, I take this opportunity to welcome you back from the week- long short recess that you took for the purposes of applying our time and our mind on the proposed Bills which are at the pre-publication stage. I hope that we have gotten the time to look through them and you have given your opinions accordingly.

I also wish to take this opportunity to thank our Members sincerely who participated in the games in Thika. Your participation put us in the National map as one County Assembly that took part in the sports and we congratulate you.

(Applause)

Having said that, we shall be preparing for future games which we believe we shall play better than we did.

The House Business Committee met this morning and looking at the agenda that we have, they have decided in their wisdom that the two reports which were supposed to be presented today be presented tomorrow morning and afternoon as would be indicated by the various Chairpersons.

NOTICE OF MOTION

**REPORT OF THE COMMITTEE ON
DELEGATED LEGISLATION ON THE
INTENTION TO ESTABLISH THE OFFICE OF
PROTOCOL OFFICER AND GOVERNOR'S
ADVISOR ON AGRICULTURE**

Hon. Muhula: Mr. Speaker, Sir, I arise to give notice of the following Motion:-

THAT, this House adopts the report of the Committee on Delegated Legislations on the intention to establish the Office of Protocol Officer and Governor's Advisor on Agriculture by the County Public Service Board, laid on the Table of the House on Tuesday, 9th August, 2016.

On the same note, I wish to seek the leave of the House that the debate is done tomorrow. Thank you.

There being no protestation as I had earlier indicated, that would be an agenda for tomorrow in the plenary at 9.30 a.m. Yes, Chair of Governance and Administration.

**REPORT OF THE COMMITTEE ON
GOVERNANCE AND ADMINISTRATION ON
THE PETITION FROM MAU MAU VETERANS
ASSOCIATION**

Hon. Awuor: Thank you, Mr. Speaker, Sir, I arise to give notice of the following Motion:-

THAT, this House adopts the report of the Committee on Governance and Administration on the Petition from Mau Mau Veterans Associations laid on

the Table of the House on Tuesday, 9th,
August, 2016.

Hon. Speaker: I want to believe
they had been laid last week.

Hon. Awuor: It was Tabled on the
9th of August. I shall move it tomorrow.

Hon. Speaker: So, I hope the
secretariat will ensure that Hon. Members
have copies of the two reports for
deliberations tomorrow. Next Order!

MOTION

ADJOURNMENT

There being no any other Business,
will you be upstanding for adjournment.
There being no any other Business, this
House adjourns till tomorrow 24th,
Wednesday, 2016 at 9.30 a.m. in the
Chambers.

The House rose at 2.39 p.m.

WEDNESDAY, 24TH AUGUST, 2016

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

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

PRAYER**MOTION**

**REPORT OF THE COMMITTEE ON
DELEGATED LEGISLATIONS ON THE
INTENTION TO ESTABLISH THE OFFICE OF
PROTOCOL OFFICER AND GOVERNOR'S
ADVISOR ON AGRICULTURE**

Hon. Muhulah: Mr. Speaker, Sir, I would like to move the following Motion:-

THAT, this House adopts the Report of the Committee on Delegated Legislations on the intention to establish the office of Protocol Officer and Governor's Advisor on Agriculture by the County Public Service Board, laid on the Table of the House on Tuesday, 9th August, 2016.

Mr. Speaker, Sir, it is important to note that by the time of doing this report, the Committee on Delegated Legislation, Justice and Legal Affairs had not been split into two.

PREFACE

Mr. Speaker, Sir, the Select Committee on Delegated Legislation, Justice and Legal Affairs is established pursuant to the Assembly Standing Order 190 which states that:-

- (2) There shall be a select Committee to be known as the Committee on County Delegated Legislation.
- (3) Whenever a statutory instrument is submitted to the County

Assembly pursuant to the Constitution, any law or these Standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the County Assembly by the Chair of the relevant Sectoral Committee and thereafter stand referred to the Committee on Delegated Legislation.

- (4) The Committee shall consider in respect of any statutory instrument whether it:-
 - a) is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of County Assembly;
 - d) contains imposition of taxation;

2016 SIAYA COUNTY ASSEMBLY DEBATES

- | | | | |
|----|---|------------------------|---|
| e) | directly or indirectly bars the jurisdiction of the Courts; | l) | makes rights, liberties or obligations unduly dependent |
| f) | gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power; | | insufficiently defined administrative powers; |
| | | m) | inappropriately delegates legislative powers; |
| g) | involves expenditure from the County Revenue Fund or other public revenues; | n) | imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation; |
| h) | is defective in its drafting or for any reason, the form or purport of the statutory instrument calls for any elucidation; | o) | appears for any reason to infringe on the rule of law; |
| | | p) | inadequately subjects the exercise of legislative power to County Assembly scrutiny; and |
| i) | appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made; | q) | accords to any other reason that the Committee considers fit to examine. |
| j) | appears to have had unjustifiable delay in its publication or laying before County Assembly; | (5) If the Committee:- | |
| k) | makes rights, liberties or obligations unduly dependent upon non-reviewable decisions; | (a) | resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant County department or the authority that published the statutory instrument; |

2016 SIAYA COUNTY ASSEMBLY DEBATES

- (b) does not accede to the statutory instrument, the Committee may recommend to the County Assembly that the County Assembly resolves that all or any part of the statutory instrument, as the case may be, be annulled.

The Committee would wish to extend its gratitude to the Offices of the Speaker and the Assembly Clerk for their support towards the planning and facilitating the Committee's engagement with the County Executive

Mr. Speaker, Sir, it is my pleasant duty, pursuant to Standing Order 180(6), to present the Report of the Select Committee on Delegated Legislation, Justice and Legal Affairs on the intention to establish the office of Protocol Officer and Governor's Advisor on Agriculture by the County Executive for consideration by the House.

COMMITTEE MEMBERSHIP

The Committee is comprised of the following members:-

1. Hon Sylvester Madialo
2. Hon Booker Minami
3. Hon Stephen Kadera
4. Hon Peter Muhulah
5. Hon Pamela Midumbi
6. Hon Walter Okello
7. Hon Teresa Osore
8. Hon Andrew Omwende
9. Hon Hilda Otieno
10. Hon Fred Ouda

Acknowledgement

A special acknowledgement goes to members of the County Assembly Committee on Delegated Legislation, Justice and Legal Affairs and staff who participated in the report writing exercise.

Executive Summary

The Select Committee on Delegated Legislation, Justice and Legal Affairs received communication from the House on the County Executive's intention to establish the office of the Protocol Officer and the Governor's Advisor on Agriculture through the Siaya County Public Service Board vide letter dated 23rd February, 2016.

In order to establish the exact need and legality of the proposed offices, the Committee held a total of four meetings with officers from Siaya County Public Service Board and the then acting County Secretary. During the deliberations, the Board and the County Secretary implored on the Committee to give a nod to the proposals given the gaps in both the core department of agriculture and protocol gaffes that have been experienced in events attended by the governor and his team.

The Committee recommended the establishment of the Protocol Office with the terms and conditions herein elucidated. However, the position of the Advisor on

Agriculture was found to be untenable. This was on the basis that the County had reached the statutory limits on the number of advisors. It was also clear that the department was well staffed with qualified officers in various positions who are in a position to offer the much sought for advice.

Investigative Meetings

Mr. Speaker, Sir, the Committee held four meetings in which it had engagements with the Siaya County Public Service Board and the County Executive through the Office of the County Secretary. These meetings were held from 1st to 2nd April and 8th to 9th April at the Royal City Hotel, Kisumu.

During the first meeting, the Committee met the vice chairperson of the County Public Service Board. However the Committee noted that the vice chairperson had not been properly briefed on the County Executive's intention to create the two offices. It was also noted that she was not able to adequately provide valid reasons for the creation of the two offices. This made the Committee to reschedule another meeting with the entire Board.

Committee's Engagement with the County Executive

The Committee further met the Acting County Secretary, Mr. Joseph Omondi, in which he informed the Committee that;

1. There was need to establish the office of the Protocol Officer in order to handle protocol issues in the Office of the Governor and to coordinate public meetings and other engagements with the public.
2. The protocol office would identify and prepare in advance the arena

before the Governor goes to public meetings.

3. The office would link the sub-County offices with the Governor's Office.
4. That the role of the office is different from the Chief of Staff who handles the Governor's diary; is the liaison officer and principal personal assistant to the Governor.
5. That there has not been a substantive officer handling the duties of that office, hence on many occasions there has been confusion on protocol matters.
6. On the need to create the office of the Governor's Advisor on Agriculture, the Governor needed an expert that he had direct link with and that can handle issues that other offices that deal with the implementation of policy decision are not doing.
7. That the Advisor will be under the Office of the Governor and the terms of engagement would be on contract basis.
8. That the County needed an expert who can carry out research on agricultural needs of the County and advice the Governor on what action to take.
9. The Executive needed the approval of the County Assembly since the post was not provided for by the Transition Authority as was the case with the other three Advisory offices that were not pegged on approval.

Committee's Meeting with the Siaya County Public Service Board

During the Committee's interaction with the Siaya County Public Service Board, the Board informed members that;

1. The Board had received communication from the County Executive vide a letter dated 23rd February, 2016 requesting the creation

2016 SIAYA COUNTY ASSEMBLY DEBATES

of the two offices and subsequent recruitment of the competent officers.

2. The Board acknowledged receiving the letter and further engaged the Chief of Staff to provide more information on the two offices.
3. The staff under the Governor's Office be under contract and that their terms of engagement be between them and the Governor and not the County Public Service Board.
4. There had been confusion and inefficiencies on protocol matters on many occasions since different offices appeared to be handling the same. This has caused bad experiences by the Board, Assembly members and the Executive officers.
5. The County Executive had benchmarked with other Counties and found out that most Counties have protocol office within their establishments.
6. There was need to look into the workings of the office of the Director of Communications and its operations.
7. That the office of the Protocol Officer should be an office in the Siaya County Public Service to ensure posterity and further there be controls and disciplinary measures.
8. That the proposed job group is JG 'P'.
9. That the Siaya County Public Service Board's mandate is to provide competent public service for efficient service delivery.

In their submission, the Board requested the Committee to allow it create the office and that it be on contract basis and further that due to exigencies of work, the matter be dealt with within the most convenient time possible.

Committee Observations.

The Committee having interacted with the County Public Service Board

and the County Executive made the following observations;

1. The interactions between the County Executive and the County Public Service Board were not effective hence the inadequate information being provided to the Board by the Executive.
2. The County Public Service Board have not come up with fully structured organogram and relied on requests for office creation by the Executive. This was observed in the Committee's earlier report on establishment of the Office of the County Attorney.
3. The County Executive Committee Member in charge of Agriculture, Livestock and Fisheries was handling the advisory duty on issues of agriculture.
4. There were confusion and inefficiencies on protocol issues in the County especially during official functions.
5. The office of the Director of Communications was not well structured within the County establishment. It was a one man office under the office of the Governor.

Committee Recommendations to the House

The Committee having analysed the presentations from the County Public Service Board, and the County Executive and the findings recommended the following;

1. That the office of the Protocol Officer should be created by the County Public Service Board as requested and be an office within the structure of the County Government. This is line with the practice in standard dispensations where a Protocol Officer reports to the Director of Communications. In such

2016 SIAYA COUNTY ASSEMBLY DEBATES

circumstances, the Protocol Officer is responsible for public relations, media liaison and protocol service in both County and Governor's Office. The creation of this office would cushion the cited inefficiencies that have been experienced by the County Government on protocol matters. The County Public Service Board should therefore source for a competent person and that the terms of engagement be on contract basis and qualifications of the said office be as is prescribed in the scheme of service of officers serving in the public service.

2. The County Public Service Board to create the Office of the Director of Communications and enlarge the Directorate in their organogram. The holder of this office should be on permanent and pensionable terms. The current Director of Communications is attached to the Governor's Office on contractual terms that end with the term of the current Governor.
3. That the office of the Advisor to the Governor on Agriculture should not be created since it was not provided for by the defunct Transition Authority as an office under the office of the Governor. Furthermore, the County Executive Member for Agriculture, Livestock and Fisheries and the Chief Officer provides the same services as would have been provided for by the proposed office.

The defunct Transition Authority together with Public Service Commission in consultation with the Council of Governors and Salaries and Remuneration Commission only approved the creation of a cadre five staff to be known as advisors to the Governors.

The Siaya County Governor currently has five advisors on Economic Affairs, Health, Investment, Political and Legal. This

caps any further recruitment of such a position in Siaya County.

With that, Mr. Speaker, Sir, I want to urge this Hon. House to adopt the Committee's Report. I ask Hon. Booker to second.

Hon. Minami: Seconded.

Hon. Speaker: Hon. Members, you realise that this report is a carry-over from our previous Committee which has now been split into two.

(Question proposed)

Hon. Oriaro: Thank you, Mr. Speaker, Sir. I say 'Amen' to this report. On the issue of the Protocol Officer, I must say that at times I wonder how we operate in this County. In fact, yesterday I had an opportunity to talk to one of your visitors, a young man from this County who is engaged in matters to do with civil societies at the international level and he told me that whenever they have an appointment with the Governor, they can sit on the benches all day long.

Sometime back, the Health Committee and later on the Education Committee were separately invited to meet with the Governor; they sat in the corridors doing nothing and at the end of the day they never met him. It is merely a protocol issue. So, if those missing links can be fixed by this said office, then I say 'Amen' to it.

On the issue of the Advisor on Agriculture, yes we know that the maximum number should be five. This was as a result of consultation between the Council of Governors, the Salaries and Remuneration Commission and the Transitional Authority. These are merely advisory opinions that can easily be challenged in any court of law; it is only

2016 SIAYA COUNTY ASSEMBLY DEBATES

that it hasn't caught the attention or the eagle eye of any progressive citizen. We do have an advisor dealing with matters health yet the same docket has a Director, a Chief Officer, other bureaucrats and a CEC Member. It is a devolved function which is very key. Agriculture is equally important. The Department has a CEC Member, a Chief Officer, Directors and other bureaucrats. All these Departments are equally important.

If the Governor has got a legal advisor, on what grounds was he tempted to create an office in disregard to legal provisions? Where was his legal advisor? It is also political because it is within the powers of the Governor to choose whoever he wants to be his advisor on issues relating to agriculture. Where was his political advisor who is also in the payroll of the County Government? Where were these offices?

So, in other words, this report tells us that the Governor is always naked. These people only exist in name. They only exist on de facto grounds, but on legal grounds and in so far as giving services, the Governor is naked. The County Assembly should go beyond this and we should even question their terms of reference, how they conduct their daily activities and whether what they earn is commensurate with their services.

All in all, we had an illegal advisor on matters of agriculture. This man illegally existed and we want to know who planned for his earnings and who planned for his occupation of office space. So, the whole issue ought not to have been brought to a halt at the level it has been left. We need to know how our monies that have gone to waste will be recovered. This is corruption and infact we should send a strong warning to our friend the Governor

that he should not just misuse public office by bringing anybody on board.

So, as I say yes to this report, that aspect needs to be investigated so that in future we don't give room to misuse of public office. The Governor is a public trustee and a public trustee has to respect the public.

Hon. Minami: Point of Order, Mr. Speaker, Sir!

Hon. Oriaro: Thank you!

(Laughter)

Hon. Speaker: Yes, Hon. Booker.

Hon. Minami: Mr. Speaker, Sir, I wanted to know from Hon. Oriaro if he is insinuating that somebody had already been employed in the Office of the Governor as an agricultural advisor.

Hon. Oriaro: Thank you, Mr. Speaker!

Hon. Speaker: Hon. Oriaro, why don't you wait for me to give you the chance to speak?

Hon. Oriaro: Sorry! Sorry!

Hon. Speaker: Yes, is that what you are trying to insinuate?

Hon. Oriaro: Mr. Speaker, Sir, Committees, leave alone the Committees being the extension of this House, by the very origins of each Member they have the duty to act in the best interest of the House.

Hon. Speaker: Hon. Oriaro, are you insinuating that---

Hon. Oriaro: Everybody knows, including Hon. Booker, that one K'okoth--

Hon. Speaker: Order! Order! Hon. Oriaro!

(Laughter)

I think you are making it a habit. Today I want you to withdraw from the

2016 SIAYA COUNTY ASSEMBLY DEBATES

Chambers. You cannot be this one person who the Speaker has to repeatedly tell to note points of order. For that reason, kindly withdraw from the Chambers.

(Applause)

Hon. Oriaro: But I have got hearing problems, I did not hear that!

(Laughter)

Hon. Speaker: He has a hearing problem but he can hear how to withdraw.

(Laughter)

(Hon. Oriaro withdrew from the House)

Hon. Members, do not confuse Motions. The Motion we have at hand is on the creation of the offices. If you have business to do with an illegally constituted office then you can bring it separately as a substantive Motion. Yes, Hon. Ndonji.

Hon. Ndonji: Thank you, Mr. Speaker, Sir. First I want to commend the Committee for the job they did. From the recommendations, it is clear that they did some good research.

Initially, I was asking myself why they were rejecting the position of the Advisor to the Governor on Agriculture. Going through the report, and also after doing my own enquiries, it is very clear that the Governor has exhausted the five recommended number of staff he is entitled to. As a matter of fact, I tend to think that it was even better for him to have an Advisor on Agriculture rather than have some of these other advisors.

On having the Protocol Officer, it is my hope that this office is not going to introduce a lot of bureaucracy when MCAs

want to access the Governor's Office. Though I rarely go there, I tend to think that there is a lot of bureaucracy when somebody has an issue with the Governor and this tends to slow down the pace in which activities are supposed to be done.

Despite the fact that I am supporting the establishment of a protocol office, it should be to the extent that it does not harm the smooth relationship between the Executive and this Assembly when it comes to issues that are important to the County. I support.

Hon. Speaker: Yes, Member for West Gem.

Hon. Abayo: Mr. Speaker, Sir, I rise on my feet to raise a number of issues that would have convinced me to support this particular report. A very key starting point for me is raised on the executive summary which states that the 'Committee recommends the establishment of the protocol office with the terms and conditions herein elucidated'. With a background in human resource management, as I speak, I have not seen the terms and conditions that have been highlighted. I have not seen terms of reference on what will be the role of this Protocol Officer. For the Committee to convince this House, they would have outlined very clearly the terms of reference for this office. It is a bit general.

Mr. Speaker, Sir, I am not just speaking from my background in human resource management, but I also want to talk as the Chair of the Committee on ICT under which this particular position falls because it deals with matters communication. The Committee has raised the bit of the position of the Director of Communications under which the office to be created should fall; and even the organogram itself, as raised by this

2016 SIAYA COUNTY ASSEMBLY DEBATES

Committee, is not very clear. Do we have the position of the Director of Communications? As the Committee has observed, this is one position we have raised with the Office of the Governor.

We have somebody in the name of Boni Odinga, is he the Director of Communications? This is not even in his appointment letter! Is he handling the Governor's press service or we are talking about somebody in charge of communication at the County level? So, we want to put somebody under a position that does not exist or is there anybody that acts as the Director of Communications in Siaya County today? What does the organogram say and who is at the top? Do we fill the position of the Director of Communications then later on look at the Protocol Officer? So, unless that is clear, then we will put somebody in a position where they will never get direction.

Mr. Speaker, Sir, my concern is that a lot has been done in this County but we have nobody to communicate. We have had events where there is a lot of disorganization yet we have the Chief of Staff and the staff in the Office of the Governor.

I have seen that the Chief of Staff is also the person standing in as the personal assistant to the Governor. Then there is a lady by the name Pauline, what is her role? As a Committee, we have done a letter to the Executive on the need to unravel this position of Siaya County Director of Communications. There is need to think of that office but I don't think it is the starting point if we want to solve the issue of communications.

Secondly, the County Public Service Board says in this report that they have benchmarked with other Counties and found out that most Counties have the

protocol office. If this office is to exist, the Committee should have told us more about it and what it does. We should not just create offices because other Counties have created them; we should create offices because they address our needs.

I expected the Committee to give us an analysis or examples where the lack of this protocol office has led to problems. They have not highlighted anything that shows that the lack of this office has led to inefficiencies in the County. They have cited confusion and inefficiencies during official meetings but they should have given us clear examples because some of us may have not been in those meetings. The Committee has confirmed that the office of the Director of Communications is not well structured. That is a fact and I can attest to it as the Chairperson of the ICT Committee.

I'm concerned about the Protocol Officer but I want to agree totally with the Committee on the bit of the Governor's Advisor on Agriculture. As observed by the Committee, this is one department that is well staffed. It has Directors in charge of crops, fisheries and livestock and it also has a Chief Officer. If we are talking of research, then what is the role of these technical people?

Mr. Speaker, Sir, the CEC in charge of agriculture is not even performing her roles today because she was thrown out of office and her office is locked. You did make a ruling on the Floor of this House based on a court ruling yet someone wants to bring in an advisor and has denied the substantive CEC Member an opportunity to render services to this County.

(Applause)

This is hypocrisy! This is what I would call personal preference and local biasness. The court has made a statement on the issue but because the Governor does not like the lady, she has been locked out of office. I don't know whether she is earning. It is a big joke that we still want to talk of an advisor.

What makes it even more interesting is that in the wisdom of the Governor, though he has the leeway to appoint five advisors, he certainly he did not consider it important to have an agricultural advisor when he was doing his first appointments. Siaya is an agriculture dependent County yet the Governor could only think of having a political advisor. The threshold of having five advisors has been met, so, let him sack one of the advisors and replace the position by having an advisor on agriculture.

Mr. Speaker, Sir, I will not be standing here to support this report until some position has been taken. I expected that the Public Service Board would have started by dealing with the position of Director of Communication and then scale it downwards. We may be handling the symptoms and not the causes of the real problem.

Mr. Speaker, Sir, I will be taking up this and I am sure that even if the House approves this, there is still much to be done in this particular area so that we get the service delivery we really need. Thank you.

Hon. Speaker: Yes, Chairman, Hon. Madialo.

Hon. Madialo: Thank you, Mr. Speaker, Sir. The Motion was moved by the then Chairman, Hon. Muhulah. Though I have come late, allow me to support the report on the following grounds;

For us to come up with these recommendations, we had to go through about four sessions with the Siaya County Public Service Board and the County Secretary. What might come out confusing is that we may be mixing the role of the Director of Communications and that of the Protocol Officer. Mr. Speaker, Sir, those jobs are distinct and independent.

Mr. Speaker, Sir, an advisor in the Office of the Governor, if approved, is an advisor that goes away with the Governor. These advisors, the five plus the Protocol Officer, if this House adopts this report, are those persons that are required because of exigencies or the experiences that the Governor and specifically the County Public Service Board feels there is need to be addressed for the time being.

Mr. Speaker, Sir, it is not that we did not address our minds to this. May I also confess that the Board itself seemed to be divided over what they had requested us to do. On the office the Advisor on Agriculture, one of the reasons that informed our rejection of that request was that the Board having requested that this House allows them to create that office, later on recommended to us that it is not needed. In essence, as they sat before us, they were saying they are requesting, but it is needless.

Mr. Speaker, Sir, in regards to the Protocol Officer, there was demonstration that there is need for a person to address issues that do with references and protocol services not only in political functions, but also in the day to day running of the affairs that go with the Office of the Governor.

Mr. Speaker, Sir, for the fear of being repetitive because I do not know what other Members might have said, I urge this House to reject the request for an Advisor on Agriculture but approve the

2016 SIAYA COUNTY ASSEMBLY DEBATES

request for the creation of the office of a Protocol Officer in the Office of the Governor.

Hon Speaker: Yes, Hon. Booker.

Hon Minami: Thank you, Mr. Speaker, Sir, for the opportunity. I'm a Member of this Committee and indeed this is our report. I want to thank my colleague Hon. Muhulah for having presented this report with passion and emotions being that he participated in its deliberation.

Mr. Speaker, Sir, if you go through our recommendations, it is true that there might be a confusion between the Protocol Office and the office of the Director of Communications. Infact, I want to thank your Office and the Office of the Clerk for seeing the importance of having research officers. Our research officers did a lot of work in finding out the roles of Protocol Officers and Directors of Communications and how related their work is. That kind of research was really valuable and informed our recommendation that there is a lot of confusion and inefficiency in the Office of the Governor that needs to be addressed. When you look at this report, the functions of the Protocol Officer have been highlighted.

Mr. Speaker, Sir, we have had instances in this County where protocol is not followed. There is a person by the name Makamu; I don't know whether he is an employee of the County Government. When the name Makamu appears somewhere, the issue of protocol comes to the fore. Who is he? This is somebody who can be called to say immaterial things even after senior members of this County have talked. But the moment we have a Protocol Officer and his/her directions are being followed, people like Makamu will never see the light of day in the public affairs of this County.

(Applause)

We have had public functions where the Hon. Speaker, the Governor and Members of the County Assembly are present and then somebody by the name Makamu speaks after the Speaker. Who is he!

This office is very vital and our prayer is that the functions of this office, once created, are going to be respected by all and sundry so as to get rid of the challenges we have talked about.

Mr. Speaker, Sir, it is true that currently the County does not have a Director of Communications. The one Hon. Abayo mentioned after finding out from the County Public Service Board is not employed as the Director of Communications.

Though it's an important docket, as a Committee we could not force them into employing the Director of Communications. Our research findings infact indicated that the Protocol Officer should be answerable to the Director of Communications. That is what is being done in other areas. So, let us support this.

As Hon. Abayo has said, it is important to have the Director of Communications Office and let's hope that the ICT Committee will bring a Motion to that effect so that that organogram is done in a manner that everything is in place. With those few remarks I want to support the Motion. Thank you.

Hon. Speaker: Hon. Apiyo Apiyo.

Hon. Apiyo: Thank you, Mr. Speaker, Sir. I would like to raise two issues. If you look at the report, it is quite clear that we have reached the legally required number of advisors and I really wonder how we are going to create another position. That will take the number to six

yet the Governor is entitled to only five advisors. So, when replying, it would upon the Mover of this Motion to further clarify on this.

In fact, I want support the view by Hon. Members that the creation of a new post of the Governor's Advisor on Agriculture is basically to intimidate or undermine the CEC Member for Agriculture. As we speak, her office has even been locked and I don't know where she is operating from. Creating this position would further undermine the CEC.

Mr. Speaker, Sir, I stand to support this report but request the Mover to clarify on the legally required number of advisors the Governor is entitled to. Thank you.

Hon. Speaker: I now call upon the Mover to reply.

Hon. Muhulah: Thank you, Mr. Speaker, Sir. I wish to thank the House for having deliberated well, but allow me bring something to the attention of Hon. Members. Earlier on, there was a Member who of course is not around now, but I would want all the Hon. Members to clearly understand one thing; the creation of the Office of the County Attorney is within the law and County Governments are supposed to have them. It can only be created and approved by County Assemblies as we did for the Siaya County.

I want to remind this House that recently, in a Law Society of Kenya meeting in Mombasa, it was actually recommended that the offices of the Attorney General, Solicitor General and the Government Press should be established in all the Counties. The reason for this is because policies and legislations require legal backing. It is on this basis that the Committee on Delegated

Legislations also wants to work within the legal framework. We cannot create a position that is not provided for by the defunct Transition Authority, the National Government or the SRC because payment will actually not be effected and maybe complaints are going to come up later.

I want to tell this Hon. House that there is a difference between having the Governor's Advisor on Agriculture and somebody who just walks to the Governor and they talk about agriculture.

The person purported to have been Siaya County Governor's Advisor on Agriculture was not actually an advisor but was a visitor of the Governor who went and talked to him about agricultural issues and how things can be improved; and because of this, the Governor thought there was need to create such an office. Be that as it may, we have seen the wisdom in Members reasoning that the County has enough technical people who are able to advise on agricultural issues.

Some Hon. Members talked about the confusion in the mandate of some office. Mr. Speaker, Sir, this House has only one obligation of creating that office; we have no responsibility whatsoever of giving the terms and conditions. That's the responsibility of Public Service Board. In our report we only gave out what the office was supposed to be doing.

One of our recommendations is that the County Public Service Board should create the Office of the Director of Communications. We took cognizance of the fact that there is no substantive or active Director of Communications and further recommended the Board to enlarge the Directorate in their organogram. The holder of this office should be on permanent and pensionable terms and it should be an office that is not going to be

2016 SIAYA COUNTY ASSEMBLY DEBATES

controlled by the Governor because this person will not be working for the Governor but for the County Government of Siaya.

The current Director of Communication is only attached to the Governor's Office and is on contractual terms that end with the term of the current Government. That should not be the case because this is an employee of the County Government.

One thing we must accept is that Governors have the discretion to choose who they want to work with. They even have the provision to determine their qualifications. The County Public Service Boards have no control of that because at times it is political.

We don't say that politics can only be studied in school, there are people who are well versed in politics and have never gone to study political science; so, if the Governor feels that there is somebody who can advise him on political issues and is competent enough according to him, then he can go for such a person.

Mr. Speaker, Sir, with those few remarks, I want to thank the House for having debated very well on this report and urge Members to adopt it.

(Question put and agreed to)

(Applause)

Hon. Speaker: I direct that the HANSARD Report and the Votes and Proceedings of this debate be sent to the Governor together with the County Public Service Board to enhance their understanding of the two offices in their creation thereafter.

Next Order!

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members, would you be upstanding for adjournment.

(All Hon. Members stood up in their places)

There being no other business, this House adjourns until at 2:30pm in the Chambers.

The House rose at 10:28 am.

WEDNESDAY, 24TH AUGUST, 2016

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

[The Temporary Deputy Speaker (Hon. Madialo) in the Chair]

PRAYER**MOTION**

REPORT OF THE COMMITTEE ON
GOVERNANCE AND ADMINISTRATION ON
THE PETITION FROM MAU MAU VETERANS
ASSOCIATION

Hon. Awuor: Mr. Temporary Speaker, Sir, I am on my feet to move the following Motion:-

THAT, this House adopts the Report of the Committee on Governance and Administration on the Petition from MAU MAU Veterans Association, laid on the Table of the House on Tuesday, 9th August, 2016.

Mr. Temporary Speaker, Sir, before I proceed, I ask the Hon. Joshua Owiti Osuri to second.

Hon. Osuri: Mr. Temporary Speaker, Sir, I second.

(Question proposed)

Hon. Awuor: Mr. Temporary Speaker, Sir, the Constitution of Kenya, 2010, Article 37 under the Bill of Rights gives members of the public the power to present Petitions to public authorities and it opines that:-

Every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities.

`This right is further anchored in the County Government Act, 2012 Article

15 which gives members of the public specific power to petition the County Assembly and it states:

Right to petition county assembly;

(1) A person has a right to petition a county assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation

(2) Each County assembly shall prescribe a procedure for exercising the right under subsection (1)

The County Assembly of Siaya, acting under the guidance of the statutes aforementioned, has clearly prescribed a procedure for enabling the exercise of this right as presaged in the County Assembly's standing orders Part XXIV on Public Petitions.

Based on the foregoing legislations, the County Assembly of Siaya received a Public Petition from the Mau - Mau War Veterans Association. The Petition was laid on the Table of this Honorable House pursuant to Standing Order No. 204(5) and committed to the Committee on Governance and Administration as per the County Assembly Standing Orders No. 211 (1).

The Committee consequently subjected this petition to rigorous research and consultations with various stakeholders including the petitioners, and reports –as documented hereafter- pursuant

to the County Assembly of Siaya Standing Orders No. 211 (2)

Acknowledgement

The Committee is grateful to, the Office of the Speaker, the Office of the Clerk and the secretariat of the Committee for ably coordinating the activities of the Committee and in making this report a reality.

It is my pleasant duty, pursuant to Standing Order 211(2) to lay this report of the Select Committee on Governance and Administration on the Petition by the Mau - Mau war Veterans Association.

Mandate of the Committee

Mr. Temporary Speaker Sir, the Committee on Governance and Administration is created by Standing Order 200 read together with the Second Schedule of the Standing Orders and has mandate over and including but not limited to:

“Ensuring and coordinating participation of communities and wards in governance at local level, assisting communities and locations to develop administrative capacity for the effective exercise of the functions and powers and public participation in governance at the local level”.

Specifically, the Committee is granted powers under Standing Order 200 (5) as follows:

“The functions of a Sectoral Committee shall be to-

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) study the programme and policy objectives of departments and the

effectiveness of the implementation;

- (c) study and review all county legislation referred to it;
- (d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (f) to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (Committee on Appointments); and
- (g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.”

Membership

The Committee comprises 11 Members as follows:

- 41. The Hon. Joseph K’awuor, MCA
- Chairman
- 42. The Hon. Joshua Osuri, MCA
- Vice Chairman
- 43. Hon. Peter Muhulah, MCA
- Member
- 44. The Hon. James Munda, MCA
- Member

2016 SIAYA COUNTY ASSEMBLY DEBATES

45. The Hon. Fred Ouda, MCA
- Member
46. The Hon. Nicholas Aneme, MCA
- Member
47. The Hon. Mary C. Ajwang, MCA
- Member
48. The Hon. Anjeline A. Odhiambo,
MCA - Member
49. The Hon. Anastasia Augo, MCA
- Member
50. The Hon. Sellah Okwako, MCA
- Member
51. The Hon. Kesia Siwa, MCA
- Member

Assembly who provided adequate, factual and objective pieces of information with regard to the prayers of the petitioners.

The outcome of the deliberations was expected to be: a comprehensive analysis of the Petition that would offer an appropriate response to guide and adequately advise the House and the petitioners on the way forward.

Observations

- 1) The Review of admissibility of the petition:

- 1) Title of the Petition: A Public Petition from County of Siaya Mau - Mau liberation war veterans, to the Siaya County Assembly, drawn in accordance with part XXII of the standing orders of the Siaya County Assembly.

The expected recipient of the petition mentioned as 'the Siaya County Assembly' is neither a legally gazetted nor recognized institution. It ought to be addressed to 'The County Assembly of Siaya' and NOT the 'Siaya County Assembly' as indicated therein.

- 2) Petitioner :

According to the County Assembly of Siaya Standing Orders, No. 207(e), a Petition should have its subject-matter indicated on every sheet if it consists of more than one sheet. The main title identifies the petitioner as 'Mau - Mau War Veterans Association County of Siaya' however; the subject matter indicated on every sheet identifies the same petitioner as 'Kenya Liberation War Siaya County Veterans.' This poses identification challenges thus begging the following questions;

Terms of Reference/Guidelines

The objective of the Committee was to thoroughly scrutinize and critically review the Petition, and to respond to the petitioners by way of a report which shall have been fulfilled by this report in accordance with standing order 211 (2).

Meetings

In the discussion of this petition the committee held three meeting one of which a representation of the Mau - Mau War Veterans was in attendance. The last meeting was held on Monday 8th of August 2016 where the Committee reviewed and validated the report for tabling in this Honorable House.

Procedure adopted

To adequately accomplish this objective, the Committee resorted to documentary review of legal statutes and closely worked with the Legal and Research Departments of the County

2016 SIAYA COUNTY ASSEMBLY DEBATES

i. Are the 'Mau - Mau War Veterans' and the 'Kenya Liberation War Siaya County Veterans' one and the same people?

- i. Which liberation war is the 'Kenya Liberation War Siaya county veterans' referring to since the country has gone through several liberation struggles since independence?

The Problem; the issue of specificity is the core question here for proper identification and due diligence. This is important considering the identification challenges that have instigated wrangles amongst the membership of the 'genuine Mau - Mau war victims' and the perennial claims by the alleged groupings.

- 3) Efforts Made in attempts to address the Mau - Mau Issue:

The County Assembly of Siaya Standing Orders section 207(f) states that a Public Petition should indicate whether any efforts have been made to have the matter being petitioned addressed by a relevant body and whether there has been any response from that body, or whether the response has been unsatisfactory.

Contrary to the aforementioned clause, the Petition in question has failed to clearly highlight efforts that have been

made by other authorities to address the issue petitioned. Instead, the Petition reads in part 'That, the issues in respect of which this Petition is made, are not pending before any court of law or constitutional or legal body. In the Siaya County Assembly Jurisdiction.'

Linguistically, the full stop immediately after the word 'body' insinuates that the issues addressed in this Petition are not pending before any court of law or constitutional court anywhere in the world Siaya County included. The words after the full stop- fail to clarify the same case with respect to Siaya County jurisdiction.

The Mau - Mau war veterans being country-wide victims of the infamous uprisings against the British draconian rules between 1952-1960 in the whole country, Kenya, the issues of looking into their welfare have largely been considered a national affair. This is because several communities across the country took part in the uprising and fell victims of the same thereof.

The Kenyan Government has over the years supported various initiatives aimed at supporting these heroes and heroines in the spirit of promoting patriotism and national unity, as stipulated in Article 10 of the Constitution of Kenya 2010.

Amongst the landmark cases for the Mau - Mau Veterans include but not limited to;

- i. The Mau - Mau victims' case against the British government logged in June 2009 by the victims themselves.

In 2013, the British government paid out \$21.5million to a group of 5,200 Kenyans- deemed to be Mau - Mau war victims found to have

been tortured during the rebellion in the 1950s.

The Temporary Speaker (Hon. Madialo): Sorry for interruption, Hon. K'awuor. What you are addressing are issues of facts including payments of up to \$21.5million. I have looked at the annexures to the report, are we able to verify these?

Hon. Muhulah: Point of information, Mr. Temporary Speaker, Sir!

The Temporary Deputy Speaker (Hon. Madialo): Yes, Member for West Alego!

Hon. Muhula: Mr. Temporary Speaker, Sir, I want to recognize your sentiments that the question is one; looking at the divisibility of this debate this afternoon, I don't know whether it will be worth us deliberating because we clearly know that the jurisdiction and the prudence of Siaya cannot be allowed to discuss this one because we have very limited facts on the issue we are discussing because my mind tells me that this is more or less a National thing than a County thing. Could you give guidance?

Hon. Temporary Deputy Speaker (Hon. Madialo): Thank you, Member for West Alego; I had expected the Member for West Gem to address us on insecurity. Sorry, Chair for interrupting but I would wish that perhaps the House addresses the admissibility of the facts that are before us so that we don't debate in vain.

I am not taking a position but an issue has been raised and it is pertinent for Chair for Governance. These two issues you leave admissibility, Chairperson you have said that this Report is made pursuant to part XXII of our Standing Orders and part XXII of our Standing Orders reads as follows:-

PART XXII- COMMITTEE OF THE WHOLE HOUSE

Limits on consideration of matters by Committee

156. A Committee shall not consider any matter other than a matter which has been referred to it or which it is required by these Standing Orders to consider.

157. A Committee may not adjourn its own Sitting or the consideration of any matter to a future Sitting, but the Chairperson may, by Motion, be directed notwithstanding that all matters referred to the Committee have not yet been considered, to report progress to the House and ask leave to sit again.

Hon. Temporary Deputy Speaker (Hon. Madialo): Clearly part XXII of our Standing Orders does not cover Petitions and, Chairman, the other issue that I would have wished to call to your attention; I don't know whether it is a misnomer with our Standing Orders. It is captured here that you are doing this because you have the mandate of ensuring coordinating this special communities in Governance at local level, assist in community sub location to develop administrative capacity and I don't know whether there is any statute that recognizes locations as a unit in the County Government. I wanted to invite debate on admissibility, Hon. Oriaro!

Hon. Oriaro: Mr. Temporary Speaker, Sir, away from the actual reporting by the Committee on Governance, if we took our time through the Petition. The spirit is very clear, when we talk about the spirit of admissibility. This matter would be seen as extra-county

2016 SIAYA COUNTY ASSEMBLY DEBATES

to me would be misplaced, the spirit of Petitioner indeed if you see the prayers and we had a chance even to know of the origins of the Petition itself in the previous Mashujaa day. The spirit of this is to see a possibility of each County recognizing their heroes. We would be talking about Mau Mau but their case was not merely an issue specific to given areas.

For the Mau Mau case as it is for Siaya, our Mau Mau people's names are there and others are not, like my great great grandfather Mukunga Ochola Nyanama Osigro. Can we arrive at a way of recognizing them? That is why to me this matter is probably before us so that as Siaya County we can come up with ways of recognizing our heroes. While we are talking about Mau Mau, if you read "not yet Uhuru," Oginga Odinga comes up very clearly by recognizing who heroes and heroines are. Some were poets, song writers and all sorts of people, so as we come up with a possibility of having a legal framework as Siaya as remotely and appropriately addressed by this.

The other time when we lost our sons because of mass protest, you could everybody say including the policy makers led by the Governor that we will honour these people. So the spirit of the Petition is to see to it that us in Siaya we are having 47 Counties and one National Government. Can we in our respective Counties come up with a proper layout where heroes in Siaya whether they participated nationally or locally, Siaya can recognize them by way of even giving rewards or maybe having particular monuments. This matter is very appropriate for our discussion in the House and that's why the spirit of it ends up pointing to a possibility of even having a

law which is only suitable to our needs. I support that spirit.

Hon. Abayo: Thank you, Mr. Temporary Speaker, Sir; I am on my feet on the direction that you have given in terms of admissibility of this particular Report of this House. Mr. Temporary Speaker, you have tried to position where this particular report would come in but the first option that this Committee is allowed to do is to handle anything that is committed to this Committee. I think that was the first provision. It is your Chair that did commit this particular Report to the Committee that is actually handling it.

The issue of admissibility may have been looked at or if it were looked at and it was committed to this Committee then the Committee is then mandated to do the best that they have done and brought it but allow me to mention that I had interacted with this Petitioner. I want to agree with the recommendation given by this Committee because this had been admitted to this Floor, if we allow the Mover to go through you would see very clearly how this Committee came to the recommendation that they have given. If now I want to address myself to the direction that you have given and that I'm agreeing with the recommendation number one that has been stated here. Allow me---

Hon. Temporary Deputy Speaker (Hon. Madialo): Hon. Abayo, just confine your deliberation to admissibility.

Hon. Abayo: I have then mentioned that if I go by the recommendation this ought to have not come to this particular House. Looking at the content, this ought not to be addressed by this House but would have been relevantly addressed by the National Assembly as this Committee has stated

and if you look at some of the landmarks give, room where the same Petitioners were given a leeway and even terms extended to them to lodge this complaint. In terms of the conditions the position this should have not even been addressed in this House but in a Bill, we would have actually just written to these fellows to get one of the MPs from Siaya or wherever to deliver this to the National Assembly. Thank you.

Hon. Minami: Thank you, Mr. Temporary Speaker, Sir, for the opportunity that you have given. When we talk on the issue of admissibility as the Hon. Abayo has just enumerated, this is an issue that we should not be discussing at this stage. A Petition was brought to this House either directly to the Clerk or through a Member of this House and it is my believe that before this Petition was committed to this Committee, the relevant office i.e. the Clerk found out that it met all the required conditions for any Petition to be committed. We will be going back to an issue that maybe had been addressed earlier before even this Committee started function.

Our Standing Orders, unfortunately, I have the Old one but I think he contents are the same; number 194 clearly states how a Petition can be brought in this House, the meaning, submission, how it is supposed to be brought Here. I believe that the concerned offices looked at all these Standing Orders and found out that the way this Petition was brought in this House it met the threshold and that is why it was committed to the Committee. What we should have being doing at this time is to allow the Chair of the Committee to continue presenting the Report of the Committee in terms of the Petition that was brought. Our

main focus should be the recommendations of the Committee concerning the Petition but the issue of admissibility at this moment does not occur, Thank you.

Hon. Okuku: Thank you, Mr. Temporary Speaker, Sir, I think that we should not labour so much in discussing if this Report was supposed to be discussed in this House. I want to agree that there was an oversight with the concerned persons administering this Petition to this House, the recommendations from the Committee also agree and say that the Petition should be directed to the National Assembly since the prayer raised can best be addressed by the National Assembly.

The Assembly is playing a representation role just like the National Assembly is also playing the same role therefore we cannot labour doing something which will be better run in another place even the Committee has agreed that it could have been better and properly done by the National Assembly. I don't think that we should discuss on the same while we cannot take responsibility. Thank you.

Hon. Temporary Deputy Speaker (Hon. Madialo): Members, we have precedence in the National Assembly when the Committee on Legal Affairs recited the names of Njiru Mwigai, Anne Odhiambo during the coalition government when a Report was presented at the time of Debate and it was ruled but the Speaker back then, Hon. Marende, said it is not admissible. I recognize that under the Standing Orders, the Chairperson of the Committee on Governance had no option once he was faced on the Petition other than to address his mind to the issues that were pressing the Petition.

2016 SIAYA COUNTY ASSEMBLY DEBATES

I would like to direct the office of the Clerk, as you look at the spirit of the letter even before Hon. K'awuor concludes reading it; somebody has done detailed research that has gone in the Report. Research should have been done at the stage before we bring it to the Committee of Governance at that time but because the Committee was stressed on it and it was a little bit delayed and a debate was called on it. My knowledge is that the Chair proceeds to bring it to conclusion and let the House make a decision collectively on its adoption or otherwise.

Yes Hon. K'awuor.

Hon. Awuor: Thank you, Mr. Speaker, Sir, I was on page 7. The Mau - Mau war veterans being country-wide victims of the infamous uprisings against the British draconian rules between 1952-1960 in the whole country, Kenya, the issues of looking into their welfare have largely been considered a national affair. This is because several communities across the country took part in the uprising and fell victims of the same thereof.

The Kenyan Government has over the years supported various initiatives aimed at supporting these heroes and heroines in the spirit of promoting patriotism and national unity, as stipulated in Article 10 of the Constitution of Kenya 2010.

Amongst the landmark cases for the Mau - Mau Veterans include but not limited to;

- ii. The Mau - Mau victims' case against the British government logged in June 2009 by the victims themselves.

In 2013, the British government paid out \$21.5million to a group of 5,200 Kenyans- deemed to be Mau - Mau war victims found to have

been tortured during the rebellion in the 1950s.

- iii. In 2014, the Law Society of Kenya instructed the High Court in Britain to give more time to potential claimants seeking Mau - Mau compensation to come on board. The High Court in Britain then obliged by extending the said deadline for submitting claims by the veterans up to until May 30th 2014. The lawyers handling the matter then equally extended their deadline for submission by the claimants' to 5:00pm on 30th April 2014, to allow them vet and register the new Mau - Mau claimants.

- iv. 12th September 2015; a UK-funded memorial to Kenyans killed and tortured by the British forces during the Mau - Mau uprising was unveiled at the freedom corner, Nairobi. The Mau - Mau memorial project cost \$138,000. The monument was part of a 2013 out-of-court settlement by the UK government when it agreed to pay 20million Euros in compensation to the Mau - Mau war veterans.

- v. 26th Feb 2015; The National Parliament Motion for Fairness and Equity in compensating the victims of the Mau - Mau uprising. A motion sponsored by Hon. Patrick Wangamati.

The motion proposed that;

- ✓ The HOUSE resolves that the government ensures that the compensation by

2016 SIAYA COUNTY ASSEMBLY DEBATES

the British
government goes to
all affected homes
and families of the
victims who are still
alive all over the
country.

- ✓ That the
government to
create a 'freedom
fighter fund' for the
Mau - Mau war
veterans

Records indicate that the members
of parliament overwhelmingly
supported the motion saying that
many communities contributed to
the nation's liberation and there
should be no regional favouritism
in compensating the victims of the
Mau - Mau.

- vi. 17th Feb 2016: The President of
Kenya, His Excellency Uhuru
Kenyatta hosted Mau - Mau
veterans and unveiled the following
commitments by the government to
the Mau - Mau war veterans;

- a. The
gover
nmen
t to
set-
up a
medi
cal
sche
me
for
Mau
-
Mau
veter
ans

- throu
gh
the
Natio
nal
Hosp
ital
Insur
ance
Fund.
b. The
gover
nmen
t to
incor
porat
e
those
livin
g in
pover
ty
into
the
expa
nded
socia
l
prote
ction
plan.
c. The
Mau
-
Mau
veter
ans
to be
regist
ered
for
the
cash
transf

er
progr
am
for
the
elderl
y.
d. A
monu
ment
in
hono
r of
the
veter
ans,
to be
unvei
led
by
the
end
of the
year
2016.

In addition, The President indicated that the Kenyan government has been planning several elaborate plans for the Mau - Mau veterans but divisive engagements and wrangles amongst them has always bogged down the plans.

- vii. 5th May 2016: Hearings began in the High Court in Britain in a case pitting another 20,000 elderly Kenyans deemed to be another set of the Mau - Mau war veterans against the British government for alleged torture in the 1950s.

4.) An Act of the Assembly to recognize all war resistance waged;

In the petition, the Petitioners are requesting the County Assembly of Siaya

to enact legislation to recognize the war waged by the Mau – Mau war veterans, their struggles and suffering and efforts toward liberation of the Country.

The County Assembly has no Jurisdiction to legislate on the Mau - Mau struggle since this is a national phenomenon and has no county specific aspect, thus it requires National intervention. Furthermore, the National Assembly has recognized the essence of this form of recognition and had enacted the **Kenya Heroes Act no. 5 of 2014.**

5.) On Pension for Freedom fighters:

Pension is a regular payment made during a person's retirement from an investment fund to which that person or their employer has contributed during their working life. It goes without saying that pensions in Kenya is mostly paid to civil servants and is regulated and controlled by the Pension Act cap 189.

This function is purely a National Government function and the County Assembly therefore has no legal power to circumvent and effect payment of pension as indicated in the prayers.

6.) On The land confiscated from the Petitioners;

The Constitution of Kenya Article 67(e) gives power to the National Land Commission “*to initiate investigations, on its own initiative or on complaint, into present or historical land injustices, and recommend appropriate redress*”. The committee would therefore refer the petitioners to the National Lands Commission to have this particular prayer addressed, since it is not within the jurisdiction of the County Government.

7.) On the Creation of A Freedom and Unity University

Creation and oversight of Universities is a function of the National Government as espoused in the Constitution of Kenya (2010) Fourth Schedule (Articles 185(2) 186 (1) and 187 (2)) number 16. In addition, the Universities Act Cap 42 establishes the Commission for University Education tasked with establishing universities in Kenya as elucidated in the same Act section 13 Part III.

For the above reason the County Assembly is not in any position to facilitate the establishment of the University of Freedom and Peace, as requested by the petitioners in their prayers.

General observations

- a) The nation-wide Mau - Mau victims and or veterans fought for the liberation of the nation-Kenya and not a specific county. The national government has made elaborate plans to appreciate the heroes and heroines nationally. (Refer to section 3 (iv) and (v) of this report). The Mau - Mau Victims issue is therefore construed to be a national affair.
- b) The names inscribed on the appended rubberstamp, is that of the Mau - Mau Veterans Association- whose secretary general is correctly indicated as a Mr. Gitu Wa Kahengeri – not any other association of any of the Mau - Mau Veterans in Siaya County. The association should therefore seek to proof the validity of this alleged Siaya County branch and if the said branch is duly registered and authorized to conduct such businesses with any authority. And that the alleged Siaya county branch is not party to the on-going plans and or arrangements or

negotiations between the national veterans association (with Mr. Gitu Wa Kahengeri as secretary general) and other authorities such as the National Government of Kenya and the British authorities.

- c) Records has it that the 1st petitioner a Mr. Gitu Wa Kahengeri- therein referred to as the Secretary general- is one of the beneficiaries of the nationwide Mau - Mau compensation and or appreciation plans by the national government of Kenya and the British Government initiatives in the same objective.

- d) If the petitioners seek to proceed with this petition, then it would only be prudent if;

The petitioners demonstrate the following;

- a. They are not acting on behalf of the national Mau - Mau veterans association as per the rubberstamp appended and the signatures therein.
- b. And if they are a branch of the national Mau - Mau veterans association- then that they are duly registered and or authorized by their parent association to act on their own on the foregoing issues.
- c. That they were and have never been amongst the beneficiaries of the prior Mau - Mau Victims compensation schemes by the British government as per section 3 (i) and (iii) of this report.

e) If the petitioners demonstrate that they are members of and or a branch of the national Mau - Mau veterans association and or that they are affiliated to or are victims of the Mau - Mau uprisings, then; this petition fails to demonstrate what they have done regards the sections 3 (ii) and (v) since the referenced unfolding were and are in public domain.

f) Finally, it is public knowledge as per section 3(vi) of this report that there is an ongoing 2nd case started on 5th May 2016 at a UK High Court on this same subject. This petition does not therefore fulfill the demands of article 207(f) of the County Assembly of Siaya standing orders.

Discussion of the same would be contrary to the law and the referenced standing orders since the matter is pending before a court of law. The petitioners should therefore seek to disassociate themselves from the ongoing matter(s) on the Mau - Mau war veterans' compensation claims and or consolidate their efforts with the ongoing attempts of other veterans.

Recommendations

1. The petition should be redirected to the National Assembly since the prayers raised can best be addressed by the National Government
2. The petitioners should join the following ongoing compensation plans;

a. Mau

-

Mau
comp
ensat
ion
and
appe
ciatio
n
plans
by
the
Gove
rnme
nt of
Kenya
as
per
the
Presi
denti
al
decre
e on
17th
Febr
uary
2016
b. The
ongoi
ng
case
pittin
g
anoth
er
20,00
0
elderl
y
Mau
-
Mau
veter
ans

and
the
Britis
h
gover
nmen
t
starte
d on
5th
May
2016
in a
UK
High
Court
.

Hon. Awuor: I want to appreciate the Committee and the staff and more particularly the research officers that this Assembly has employed. Due to this proper research we have these recommendations.

This Committee was reluctant to discuss this because this is an issue that was brought before us sometimes back and given that the team has been coming and demanding, through your office Mr Speaker we were told that we have to go through this in which I want to appreciate Members who have contributed to your admissibility and your direction that we discuss this and you listen to our recommendations we are speaking on one similar page. I want to ask that we deliberate on this and adopt this report, thank you Mr Temporary Speaker, Sir.

The Temporary Deputy Speaker (Hon. Madialo): Yes, Hon. Booker, I want to remind the House that under Standing Orders 208, there is limitation on time we spend on discussing petitions.

Hon. Minami: Thank you, that's what I exactly wanted to say that what our standing orders say about discussions about petitions that have been brought to this House and I think I was saying that you gave us opportunity to debate on exceptional circumstances and I don't know if you have allowed me on the exceptional circumstances to debate because of the time that our standing orders is providing for on matters of petition.

The Temporary Deputy Speaker (Hon. Madialo): Could you move a Motion seeking that you be allowed to debate beyond 30 minutes?

Hon. Minami: That will depend on whether if Members will be interested.

The Temporary Deputy Speaker (Hon. Madialo): Maybe the Hon. Abayo will second.

Hon. Minami: Ok, I move:

THAT this House be allowed to debate on this report for more than 30 minutes. I call upon Hon. Oriaro to second.

Hon. Oriaro: Seconded.
(*Question proposed*)

Hon. Muhula: I don't whether it's me who is not getting it right because in your ruling you accepted that there was no admissibility on this report.

Secondly, the recommendations that are here actually the Committee session on governance and public administration is giving us direction that recommendations can only be handled by the National Government. Only the four things that have been put here in the normal circumstances under standing order 85 we could have requested this House to withdraw because it was going to be

something that we cannot do and conveniently report back to the petitioner.

Would there be any need to continue discussing something that we know we cannot give a solution to? The power of recognizing war veterans are still with the president of the Country and has never been devolved. What can the County Government do? The only thing we can do is to give them a token of some money and again hide under the budget of celebration of the national days. Is there any need to go on taking another 20 to 30 minutes on something we can do nothing about? Thank you.

The Temporary Deputy Speaker
(Hon. Madialo): Hon. Abayo.

Hon. Abayo: Thank you, the 20 minutes would have been summed up. The report is well done and anybody doubting the reasons given all the facts, I have never seen a report like this in this House. We don't need to debate leave alone the 20 minutes we instead needed even less time, so there is no need of extending given that it is not even within our wings to discuss it. Thank you, Mr Speaker.

The Temporary Deputy Speaker
(Hon. Madialo): Yes Hon. Asewe.

Hon. Asewe: Thank you, this House is House of rules and we have already sighted some irregularities by even bringing this report for discussion to this House. To me there is no need to extend time to a matter that has been found with irregularities, thank you.

The Temporary Deputy Speaker
(Hon. Madialo): The Deputy majority leader!

Hon. Owii: I fall a victim of not understanding why we are going round discussing on an issues that we are really sure is not within our jurisdiction. I wanted to say that if you well please we would

request you to give direction and this direction would only be to make recommendation maybe to the senate that we have around to carry it with him to the Senate or take through one of our representative in the National Assembly so that they get something that we have already digested that would really help him/ her to help our people but in the interest of representation that we have made.

The Temporary Deputy Speaker
(Hon. Madialo): Hon. Andiego.

Hon. Andiego: This is a very good report, all the questions were asked and all that the MAU MAU veterans needed is here. If they wanted to hear from Siaya County Assembly it is well documented here, so we will urge that they wanted us to speak and the Committee has spoken, let them read the report and get the information that they needed. As it has been said by my fellow colleagues, let the report be given or transfer it either to National Assembly or Senate because the power lies with those Houses. We have seen what they went through and how they suffered, therefore let the other Houses deal with it as we wash our hands from it. Thank you.

(Question on extension of debating time put and negated.)

The Temporary Deputy Speaker
(Hon. Madialo): Hon. Members, the thirty minutes allocated for the debate on the Petition have expired.

(Question on the adoption of the report put and agreed to.)

(Applause)

MOTION**ADJOURNMENT**

Hon. Otieno: Thank you, Mr Temporary Speaker, Sir. Sorry, I was a little bit perplexed because I am used to trend of the Speaker just moving the Motion, but all the same it's okay.

Hon. Muhula: Point of order, Mr Temporary Speaker, Sir! Is it in order for the Hon. Majority Leader to admit that he was not attending to the business of this House?

(Laughter)

Hon. Otieno: Mr Temporary Speaker, Sir, I didn't say so; I was just trying to say that am used to the Speaker moving the Motion of Adjournment.

The Temporary Deputy Speaker (Hon. Madialo): Hon. Majority Leader, the Speaker never moves a Motion! Proceed.

Hon. Otieno: Thank you. Having exhausted what we had in the Order Paper today, I now move that the House adjourns until tomorrow, Thursday, 25th August, 2016 at 2.30 p.m. I ask Hon. Osuri to second.

Hon. Osuri: I second.

(Question put and agreed to.)

The House rose at 3.35 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

THURSDAY, 25TH AUGUST, 2016

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

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

PRAYERS

STATEMENTS

**LAND FOR THE CONSTRUCTION OF LAKE
KANYABOLI COMMUNITY HEALTH CENTRE**

Hon. Oriaro: Mr. Speaker, Sir, pursuant to Standing Order No. 40(2) I rise to seek a Statement from the Chairperson of Lands, Physical Planning, Surveying and Housing Committee on a parcel of land which was acquired by the County Government of Siaya for the construction of Lake Kanyaboli Community Health Centre where Kshs.200, 000 was to be given to the individuals who gave the land as a token of appreciation. The land is since in the County Government's possession and the health facility is already in place.

Mr. Speaker, Sir, allow me to make a verbal amendment; the amount we are talking about is in the 2016/2017 budget. It is part of the allocation because a question would have arisen if it was the genesis of this Kshs.200,000.

In the Statement, the Honorable House wishes to beseech the Chairman aforementioned to explain;

1. Measures that the County Government has put in place to ensure that the individuals who gave out the land are duly compensated.
2. Efforts undertaken to ensure that the land is transferred in the name

of County Government of Siaya.
Thank you.

**EMPLOYMENT OF COMMUNICATION,
INFORMATION AND LIAISON
OFFICERS**

Hon Minami: Mr. Speaker, Sir, pursuant to Standing Order No. 40(2) I rise to seek a Statement from the Chairperson of the Public Administration and Governance Committee regarding the cadre of employees of the County Government of Siaya designated as Communication, Information and Liaison Officers both at Sub County and Ward levels.

In the Statement, the Chairperson should also address the following issues;

1. Confirm that the Siaya County Executive has employed officers designated as Communication, Information and Liaison Officers at Sub County and Ward levels.
2. Explain how recruitment of these officers was done citing adherence to or otherwise known procedures of employment.
3. Give details of terms and conditions of employment and requisite qualifications to the said officers.
4. Clarify the existence or otherwise of the conflicting roles between these officers and those of both the Sub County and Ward Administrators.

2016 SIAYA COUNTY ASSEMBLY DEBATES

5. Confirm whether these officers are part of the established administrative structure of the County Government of Siaya for a creation of the Public Service Board. Thank you.

Hon. Speaker: I direct that the concerned Committees pursue those questions with the Executive and report as soon as possible. Next Order!

MOTION

ADJOURNMENT

Hon. Minami: Mr. Speaker, Sir, being that there is no other agenda to be discussed on the Floor of the House and pursuant to Standing Order No. 25(3); I propose that this House adjourns until Tuesday, 4th October, 2016 at 2.30pm in accordance with the Calendar of the County Assembly regular sessions. I call upon Hon. Walter Okello to second.

Hon. Okello: Mr. Speaker, Sir, I rise to second.

(Question proposed)

Hon. Oriaro: Mr. Speaker, Sir, indeed we have an uphill task ahead of us in our various Committees. For instance, the Implementation Committee that I chair has got a lot of stuff to work on and report to this House. So, to that extent, I am also of the view that the Assembly should go on recess. This shall give us the opportunity to rigorously work on some pending businesses in our Committees. I support.

(Question put and agreed)

(Applause)

Hon Speaker: Hon. Members, there being no other business, will you be upstanding for adjournment.

(All Hon. Members stood up in their places)

Hon. Members, this House adjourns until Tuesday, 4th October, 2016 at 2.30 p.m. in the Chambers.

The House rose at 2.40 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

SPECIAL SITTING

THURSDAY, 21ST SEPTEMBER, 2016

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members, may I take this opportunity to apologize to you for disrupting your recess. It was due to unavoidable circumstances. The law provides that the Finance Bill be passed within 30 days after the passage of Appropriation Bill.

The Finance Bill came late, so the Budget Committee consulted the Majority Leader who consulted the Speaker for us to have a Special Sitting today for purposes of First Reading of that Bill and we also equally gazetted Special Sitting on 30th, September, 2016 for consideration of the said Bill. Otherwise, keep enjoying the recess until we meet on 30th, September, 2016.

PAPERS

ANNUAL DEVELOPMENT PLAN FY2017-2018, THE QUARTERLY FINANCIAL AND BUDGETARY REVIEW REPORT (FOR FOURTH QUARTER ENDING 30TH JUNE 2016), THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF SIBO WATER AND SANITATION COMPANY LIMITED FOR THE YEAR ENDED 30TH, JUNE, 2014.

Hon. Otieno: Mr. Speaker, Sir, allow me to lay the following Papers on the Table of the House:-

The Siaya County Annual Development Plan FY2017-2018, the Quarterly Financial and Budgetary Review Report (For Fourth Quarter ending 30th, June, 2016), the Report of The Auditor General on the Financial Statements of SIBO Water and Sanitation Company Limited for the year ended 30th, June, 2014.

(Hon. Otieno laid the documents on the Table)

Hon. Speaker: I am aware that the documents came when we were on recess and I would advise the relevant Committees to look at them during official time.

BILL

THE SIAYA COUNTY FINANCE BILL,
2016

(COUNTY ASSEMBLY BILL NO. 7 OF
2016)

First Reading

Hon. Speaker: Having done that, Hon. Members allow me to share with you the Gazette Notice that we put up on the 19th, September, 2016. The Speaker of Siaya County Assembly put this Notice on the Kenya Gazette. This is a notification of Special sitting of the County Assembly:-

PURSUANT to Standing Order
No. 26 of the County Assembly of Siaya

2016 SIAYA COUNTY ASSEMBLY DEBATES

Standing Orders, and following a request by the Leader of Majority Party, in consultation with the Committee on Finance, Trade, Industry, Labour and Co-operatives; it is notified for the information of Members of the County Assembly and the general public that there will be Special Sittings of the County Assembly which shall be held in the County Assembly Chambers, in Siaya on:

- a.) Wednesday, 21st, September, 2016, at 9.30 a.m. for purposes of: The Siaya County Finance Bill, 2016 – First Reading.
- b.) Friday, 30th, September, 2016, at 2.30 p.m. for the purposes of: The Siaya County Finance Bill, 2016 – Second and Third Readings, respectively.

Dated 19th, September, 2016.

As I told you, the Standing Orders require that that information for Special Sitting be gazetted. Having said that, that Bill becomes committed to the Committee of Finance, Trade, Industry, Labour and Co-operatives and arrangements were made so that public participation notices are put up and I am informed that Notice has been sent to newspapers and it reads:

In the matter of consideration by the County Assembly of Siaya, of the Siaya County Finance Bill 2016, Article 196, (1) (b) of the Constitution of Kenya 2010 provides that “A County Assembly shall facilitate Public Participation and involvement in the legislative and other business of the Assembly and its committees”.

Standing Order 129(3) states that “the Sectoral Committee to which the Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the

public when the Committee makes its report to the County Assembly”.

**SUBMISSION OF
MEMORANDA/PUBLIC
PARTICIPATION**

The Siaya County Finance Bill 2016 is to undergo the first reading on Wednesday 21st September, 2016 at 9.30 am. The Bill having been read the first time shall stand committed to the relevant Sectoral Committee for consideration and thereafter submission of the reports to the Assembly on Friday, 30th September, 2016.

Pursuant to Article 196(1) (b) and Standing Order No. 129(3), the Finance, Trade, Industry and Co-operatives Committee invites stakeholders and interested members of the public to submit any representation(s) or views at the venues and times indicated below:

DAY/DAT E	SUB COUNT Y	VENU E	TIME
Wednesday 28/9/2016	Bondo	Bondo Sub County Hall	9.00 am – 1.00p m
	Alego - Usonga	ATC Siaya	9.00 am – 1.00p m

Copies of the Bill can either be obtained from the office of the Clerk or downloaded from the website; www.siayaassembly.go.ke. Views or memorandum should be hand delivered to the office of the Clerk – Siaya County Assembly Building or emailed to clerk@siayaassembly.gor.ke to be received on or before Tuesday, 27th September, 2016 at 5.00 p.m.

You will realize that this Committee does not have much time and therefore we advise that the Committee meets this morning to come up with a work plan on how they can interrogate the Bill and possibly be involved in the relevant Committee of the House and the Executive so that come the 28th, you can meet the public.

The notice given here is for 7 days which is the requirement as per the new guidelines by COB. We hope that you will do a good job because the same County Executive had done public participation. Some of you are Members of the Budget Committee and were with the Executive in Kisumu discussing this very Bill some time back.

After this, I would request the House Business Committee to convene immediately for a short time in the Chambers.

ADJOURNMNET

Hon. Speaker: Hon. Members, there being no any other business, would you be upstanding for adjournment.

There being no any other business, this House adjourns until Friday, 30th September, 2016 at 2.30 p.m. in the Chambers.

The House rose at 9.42 a.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

SPECIAL SITTING

FRIDAY, 30TH SEPTEMBER, 2016

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

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

PRAYER

PAPERS

**THE SIAYA COUNTY FINANCE BILL,
2016**

Hon. Munda: Mr. Speaker, Sir, on behalf of the Committee on Finance, Trade and Industry, I wish to lay the Committee's Report on The Siaya County Finance Bill, 2016.

*(Hon. Munda laid the document on the
Table)*

BILL

**THE SIAYA COUNTY FINANCE BILL, 2016
Second Reading**

Hon. Munda: Mr. Speaker, Sir, I wish to move:-

THAT, the Siaya County Finance Bill, Bill No. 4 of 2016, be read for a second time. I call upon Hon. Beatrice Obondo to second.

Hon. Obondo: I stand to second.

(Question proposed)

Hon. Munda: Mr. Speaker, Sir, on behalf of the Committee on Finance, Trade and Industry, it is my pleasant duty to take the House through our Report on the Siaya County Finance Bill, 2016.

EXECUTIVE SUMMARY

Mr. Speaker, Sir, the Siaya County Finance Bill, 2016 is one of the annual Bills introduced in the County Assembly Pursuant to section 132 of the Public Finance Management Act, 2015 (Revised). Its main objective is to set out the revenue raising measures for the County Government together with a policy document expounding on those measures. Ideally, it prescribes the rates at which taxes and other charges will be payable during the Financial Year.

Article 209 (4) & (5) of the Constitution of Kenya, 2010 provides that Counties may impose charges on the services they provide and that such taxation and other revenue-raising powers of a County shall not be exercised in a way that prejudices National economic policies, economic activities across County boundaries or the National mobility of goods, services, capital or labour. Section 133 of the Public Finance Management Act, 2015(Revised) obligates the County Assembly to process and pass the Finance Bill within 90 days of passing the appropriation Bill.

The Siaya County Budget and the Siaya County Appropriation Act, 2016 was passed by the County Assembly on Thursday, 30th June, 2016. The Finance Bill, 2016 was submitted to the Assembly on 16th September 2016 and later introduced on 21st September 2016 (first

reading) and committed to the Sectoral Committee on Finance, Trade, Industry, Labour and Cooperatives for discussion, review and making of recommendations to the County Assembly.

This Report contains the Committee's proceedings of the consideration of the Finance Bill, 2016. On analysis of the Bill, the Committee observed that despite the recruitment of enforcement officers to support the revenue collectors, a lot remains to be done in order to decisively deal with the challenges of inadequate staff levels, pilferages, lack of rate payer education and revenue digitalization.

The Committee engaged a number of stakeholders whose views are contained in this report. The Siaya County Finance Bill, 2016 contains a total of 3 schedules which prescribes rates relating to property, trade licenses and fees and charges for services. The tax measures and other proposed amendments contained in this Bill are aimed at addressing the challenges or revenue collection, achieving an inclusive economic growth, reducing cost of doing business, enhancing job creation as well as fostering growth and stability in the financial sector.

COMMITTEE MANDATE

The Committee on Finance, Trade, Industry, Labour and Cooperatives is one of the Sectoral Committees established under Standing Order 200 and is mandated to:-

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;

- (b) study the programme and policy objectives of departments and the effectiveness of the implementation.
- (c) study and review all legislation referred to it;
- (d) study, assess and analyse the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary and as may be referred to them by the House;
- (f) vet and report on all appointments where the Constitution or any law requires the House to approve, except those under Standing Order 195 (*Committee on Appointments*); and
- (g) Reports and makes recommendations to the House as often as possible, including recommendation of proposed legislation.

COMMITTEE MEMBERSHIP

Mr. Speaker, Sir, the Committee on Finance, Trade, Industry, Labour and Cooperatives as currently constituted by this Assembly comprises of the following Members;

1. Hon. James Munda
2. Hon. Erick Ndonji
3. Hon. John Gare
4. Hon. Beatrice Obondo
5. Hon. Nicholas Were
6. Hon. Willis Ochieng
7. Hon. Angeline Achieng'
8. Hon. William Angul
9. Hon. Peter Ombee
10. Hon. Kesia Sewe
11. Hon. Teresa Osore

2016 SIAYA COUNTY ASSEMBLY DEBATES

COMMITTEE MEETINGS

Mr. Speaker, Sir, in reviewing this Siaya County Finance Bill, 2016, the Committee held 5 meetings. On 21st September 2016 the County Assembly advertised for public participation and call for memoranda pursuant to Article 196 (a) and (b) of the Constitution and County Assembly Standing Order No.129 (3). Subsequently the Bill was taken for public participation at Bondo Sub County Town Hall and Agricultural Training Centre in Siaya Sub-County. This exercise took place on 28th September 2016, with Members of this Committee spear heading the exercise assisted by all other Members of the County Assembly from the respective Wards.

The Committee also invited the County Executive Member for Finance and Economic Planning, as the implementing County Government Department, who was ably represented in the meeting by the Director of Revenue and technical staff from the Department for comments and clarifications in the process of considering this Bill and in reviewing the implementation of the Finance Act 2015, with a view to establishing the key milestones covered, and the major gaps and challenges experienced in the implementation of the Act.

Important to note and in line with Article 196 of the Constitution of Kenya, 2010, the Committee also held public hearing meeting at ATC Siaya on 27th September 2016 with the Civil Society Organizations and other stakeholders in Siaya County. These hearings were held to get representative views and recommendations of the specific sectors and interest groups of Siaya County on the proposed Finance Bill.

The Committee retreated to Kisumu for two days to consider views captured from public participation and prepare this report on the Bill.

The table below shows the schedule of public meetings by the Committee;

ACKNOWLEDGEMENTS

The Committee on Finance, Trade, Industry, Labour and Cooperatives wishes to sincerely thank the office of the Speaker and the Clerk of the County assembly for the necessary support extended to it in the execution of its mandate. The Committee is particularly grateful to the people of this County who came out in numbers during the public participation exercise. This Committee similarly extends its gratitude to Executive's Finance Department of the County Government for the role it played in preparation of this Bill. I wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this report.

The Committee wishes to record its appreciation for the services rendered by the staff of the County Assembly attached to the committee during the exercise. Their efforts made the work of the committee and this report possible. It is therefore, my pleasant duty and privilege, on behalf of the Committee on Finance, Trade, Industry, Labour and Cooperatives, to table this report and recommend it to the Assembly for Adoption

COMMITTEE OBSERVATIONS AND FINDINGS

Mr. Speaker Sir, during public participation and subsequent Committee meetings with the Executive, particularly the Revenue Department, the Committee observed the following;

2016 SIAYA COUNTY ASSEMBLY DEBATES

- I. The total County revenue expected for the 2016/2017 is Ksh 270,000,000. This is 4.49% of the Total Budget for the 2016/2017 of Ksh 6,012,489,451. This is a slight increase in comparison with the projections in the 2015/2016 financial year which was Ksh 230,000,000 and was 3.68% of the total MTEF budget for the same financial year. It is important to note that in the FY 2015/2016 only Ksh 142,000,000 was collected. This was only 61.7% of the projections. This County therefore still remains one of those with least revenue collections. This notwithstanding, total revenue raised in each County is a determinant of amount of funds allocated from the National Government.
- II. The PFM Act, 2015 Section 132(1), besides providing for submission and consideration of the County Finance Bill, also obligates the CEC finance to submit a policy statement that expounds on the proposed revenue raising measures in the bill. This statement was not submitted alongside the Bill resulting in obscurity of the intentions of the proposed measures.
- III. On a positive note, the Bill has introduced new revenue streams and has also widened the collection scope to include all markets in the County. This follows previous recommendations borne out of the observations that some markets were not included in the collection scope. For instance, in the Transport, Public Works, Roads and Infrastructure Department there are new charges for Probox and Passenger Motor Cycles. Registration of Cooperative Societies and Community Based Organizations also form new revenue streams amongst others.
- IV. The passenger carrying motorcycles, commonly known as 'boda bodas' shall be charged per stage.
- V. Charges related to trade in alcoholic drinks shall now be done by County and shall be one of the major new revenue streams. This shall be supported by the enacted Siaya County Alcoholic Drinks Control Bill, 2015.
- VI. The bill, in several sections made reference to Siaya County Rating Act, 2014 which has not been enacted into a law. The Siaya County Rating Bill, 2014 is still at committee stage. Since a nexus was needed on which to base some of the revenue collection proposals on land rates, the committee made reference to the National Legislation of Rating Act Cap 267 of 1986 (Revised 2012).
- VII. There was no improvement in the time the Bill was committed to the Assembly from the Executive. While the constitutional time line is very clear with respect to the enactment of this Act, and more so give a period of 90 days after the passage of the Appropriation Act, this bill was submitted to the Assembly on 16th September 2016, putting the committee in undue pressure to go through all regulatory enactment processes.

2016 SIAYA COUNTY ASSEMBLY DEBATES

- VIII. While the public participation process was conducted according to regulatory requirements, it could have been of greater value if the activity was conducted in each ward.
- IX. One of the major causes of poor revenue projection and collection in this County is lack of identification of revenue streams. The concerned department, subsequently do not have a clear picture of approximate number of businesses in different sectors and cannot monitor whether variances in the collections are favourable or adverse. This is besides the manual nature of revenue collection that is peculiar only to this County.
- X. The fishing industry has faced challenges in the revenue collection strategies since the laws that regulate this sector are still referred to from the National level. This is also allied to the fact that while fisheries was devolved, fishing activities are still under the ambit of the National Government. This bill has proposals to charges on the fish trade license and movement permits which shall hopefully streamline revenue collection in this sector.
- XI. The Bill had proposed in Section 14 that CEC ‘appoints’ any person to collect revenues in the County. This was *ultravires* to provisions of PFM Act, 2015 Section 157 (1) which only obligates the CEC Finance to ‘designate’ a person to perform such a role.
- XII. The County housing sector has continued to charge low rates that are not realistic to current economic situations. The low charges have limited the much needed renovations and related interventions. The rates have therefore been revised slightly upwards to allow the concerned department offer better services to the residents.
- XIII. The committee made certain adjustments on the rates which are contained in the annex as a result of a series of submissions and consensus from the public participation exercise.
- XIV. The committee observed that page 9 of the Bill categorized towns and markets into three, however this categorization was not uniformly tabulated in all the schedules. In additions, ‘County by-laws are repeatedly mentioned in sections of the Bill. These however are non-existent.

COMMITTEE RECOMMENDATIONS

1. County Executive Committee Member in charge of Finance should be responsive to the provisions of the PFM Act, 2015 (Revised) and submit to the Assembly policy statement explaining all the proposed revenue raising measures in the subsequent submissions.
2. Submissions of the Finance Bill should be done by the executive in accordance with Standing Order No 221 (2) to allow for more expansive and comprehensive interactions and for the due timelines to be followed without the observed constrictions.
3. The revenue collection department should urgently take stock of all revenue streams in the County and

2016 SIAYA COUNTY ASSEMBLY DEBATES

share the resulting data with this assembly. This will streamline revenue collection strategies and expose gaps that have chained this County to the list of poor revenue collectors.

4. The much hyped and referred to Siaya Rating Act, 2014 should be speedily dispensed with and enacted to allow specificity in charging of land rates in the County.
5. The revenue collections in this County must be urgently digitalized. Siaya County is one of the few Counties that still employ manual methods of revenue collections. This is ineffective and out-dated and must be reversed with utmost priority. This shall counter the observed pilferages in the collection process.
6. Public participation exercise should be conducted in each ward instead of clustering them in a few.
7. The County Government should prioritize construction of new, and renovation of exiting bus parks and parking bays. These parks are the collection points of the transport related revenues and currently are in various states of disorder, making parking in nearly all the towns to be extremely haphazard.
8. The County Government should more so channel funds to designate and construct 'boda boda' shades. This is an essential service for the operators in County and shall also easen proposed collections. In the same regard, the concerned department should come up with a policy of organizing the boda boda operators in to cooperative

societies to regulate and monitor their operations.

9. The housing department should carry out renovations and repairs of the County houses as their dedicated responsibility. This duty must not be passed on to the occupants as has been the case, as a result of the revised rates.
10. The mentioned 'County-by laws' are replaced by 'County laws'. The tables in the schedules also to be formatted such that relevant columns are aligned to related market categories.

I rest my case Mr Speaker.

Hon. Speaker: Hon. Members, I reckon that you have not had sufficient time to go through this document but there is little we could do as a House because the timelines could not favour us. Today is the deadline and this House must abide to the expectations of the statutes.

Hon. Muhulah: Thank you, Mr. Speaker, Sir. First and foremost, I must say that the Committee has done a great job considering the fact that this is their first time to deal with such a document. I hold the view that that at times it is very important for the Executive to send some of its officers to this place to hear the troubles we go through as Members in trying to dispense off with some timelines.

Mr. Speaker, Sir, it is very unfortunate that the for the third year running, the county government has never attained its revenue targets. The other day there was a debate on national TV that revenue collection by county governments is a major concern. The county governments must ensure that they create more avenues that will expand revenue collection.

Mr. Speaker, Sir, the biggest impediment to revenue collection in most county governments and Siaya in particular is that we have not accepted and noticed that we have actually failed to collect revenue for the past three years. I say so because you cannot rectify a mistake until and unless you recognize that that problem is with you. Until today, county government through the CEC Finance has still refused to admit that revenue collection is a challenge in this county. The mechanization of revenue collection is something this House has talked about many times but upto now; we have never seen even a report on the pilot project that was to be done by the Executive. This House and especially the Finance Committee must take its responsibility very seriously to ensure that before the end of this year we see an indication from the Executive in so far as automation of revenue collection is concerned.

Mr. Speaker, Sir, there has been insincerity and lack of accountability in the collection of revenue in this county. When finance was still in the docket of the Budget Committee, we went to some market centres and stay with that money for some time contrary to the Public Finance Management Act, 2012 that one should not hold such monies for more than twenty four hours. We were told of revenue collectors who could stay with that money for even seven days. You can't expect a broke revenue collector who has a sick child at home to stay put with revenue collection for one week and fail to use it. They will definitely use that money. Such vices must be stopped immediately.

Mr. Speaker, Sir, it is true that one of the House Committees has taken quite long with the Rating Bill and I would urge

the Committee to speed up its consideration of the document for it will open more avenues of revenue collection.

Mr. Speaker, Sir, the Siaya County Public Participation Bill was passed by this Assembly and enacted into law; the essence of that Act was to give the people of this county a chance to participate in the affairs of the county. You cannot expect people from Mageta and Luanda K'otieno to come and gather in Bondo for a public participation exercise. How do you even expect those with physical challenges to come to Bondo all the way from Mageta? The Finance Bill was debated without even the representatives of those with hearing impairments. That is discrimination! Effective public participation means that all stakeholders must be brought on board.

Mr. Speaker, Sir, I still thank the Committee for doing its work efficiently despite the strict timelines. I support the adoption of the Motion and also urge my colleagues to support it. Thank you.

(Applause)

Hon. Speaker: For the record, the Hon. Member who has just spoken is Hon. Peter Muhulah who represents West Alego Ward. Yes, Hon. Andiego, Member for Central Sakwa.

Hon. Andiego: Thank you. Mr. Speaker, Sir, I am on my feet to support this Report and I want to thank the Committee for doing a good job. Since inception, the eyes of the County Government of Siaya has always been on the exchequer release; forgetting that as a County, we are also expected to raise revenue.

Mr. Speaker, Sir, sometimes back, I did a Statement request on the area of fisheries and up to now it has never been

responded to. Up to date, a fisherman and a fish trader in Siaya do not have permits while this is one area that can bring revenue to Siaya County Government. To the fisherman, a permit is an indication that he is a law abiding citizen of Kenya. The licenses and permits can also enable these people get financial assistance from our banks and this is something that whoever is trading in fish is denied. As we all know, most of our fishermen criss-cross because there is no boundary in Lake Victoria. At times they are called robbers because they do not have any documentation to show that they are fishermen. So we have denied the people of Siaya a chance to do business and at the same time the County Government cannot get revenue.

I was going through the Committee recommendations on page ten and number two states that submissions of the Finance Bill should be done by the Executive in accordance with Standing Order No. 221 (2) to allow for more expansive and comprehensive interactions and for the due timelines to be followed without the observed constrictions. The Bill was brought to this House on 16th September and as stated by Hon. Muhulah, those who live in the islands were told to go to Bondo for the public participation exercise. Many people are not aware of the existence of this document and this may be a challenge during its implementation. In future, the Committee should put the Executive to task and continuously remind them of the need to bring the Finance Bill in good time so that everybody in the county can have quality time to look at it and understand it. Many a times when we go back to our Wards, we are accused of even mistakes done by the Executive. Like now, we will be blamed for not sharing the document

with the people yet we also received it late in the day. According to our people, we are the ones doing virtually everything in this County.

Mr. Speaker, Sir, as I wrap it up, I must say that the digitization of revenue collection is something that this County should seriously address. Sometime back, I would see revenue collectors with some digital machines; I don't know where they disappeared. Other Counties have automated their revenue collection and they are able to meet their targets. Other Counties are talking of collecting Kshs. 1 billion yet we are still struggling to raise Kshs. 230 million. It is shameful. It is like we don't know what we are doing.

Mr. Speaker, Sir, I support the Report and plead that it is implemented as soon as possible. Thank you.

Hon. Speaker: Yes, the Hon. Nominated Member, Hon. Oketch.

Hon. Oketch: Thank you, Mr. Speaker, Sir, for giving me this opportunity to also air my views on this Finance Bill. I must say that as a County, we need to seriously enhance civic education and tell people the importance of their contribution to a document such as the Finance Bill. This is one area we always go wrong on and we should look for ways of rectifying the situation by ensuring that *wananchi* participate in the formulation of important policies.

Mr. Speaker, Sir, I don't want to say much. I support.

Hon. Speaker: Hon. Member for South Sakwa, Hon. Nicholas Aneme.

Hon. Aneme: Thank you, Mr. Speaker, Sir, for this opportunity. The Report is good and I want to support it. From where I stand, I believe that collecting taxes from people is merely a public relations exercise. I would like to

encourage the team from the Trade Department that after the adoption of this document, they should go down to the grassroots and talk to our people. In each and every market there are leaders elected by traders and the revenue team must bring them on board so as to harmonise revenue collection. The people should be informed prior before the revenue collectors hit the ground running.

Mr. Speaker, Sir, another thing I wanted to talk about is the whole issue of enforcement. I have witnessed cases where you find our revenue collectors stopping people on the road to issue them with receipts and some people just throw the money at them and speed off. This places the revenue collectors in a tricky situation because they don't know how to account for the money. Do they just write a receipt and throw it away because the person who was to receive the receipt has taken off? There is a lot of laxity. One person is left in Wichlumu with no reinforcement and people throw money at him without picking receipts.

The Executive should have a system whereby someone who is trying to run away from Aneme in Wichlumu can be arrested in Bondo. There is need to tie up the loose ends so as to realise maximum collection of revenue.

Th other area of weakness is the borrowing of receipts. I have been called thrice by my people asking me why the revenue collectors are in Liunda are issuing out receipts meant for Rarieda and on a number of occasions they have refused to pay just because of this. They think they are being conned. When such a thing happens, it should be explained to the people that the receipts from Bondo, Nyang'oma or Wichlumu are out of stock and they are using borrowed ones. When

such information is shared in good time, there will be harmony between the traders and the revenue collectors. At times revenue is not collected for two days because of receipts from Rarieda.

I sit in the Budget Committee and I remember we allocated some money for automation of revenue collection. I don't know why such a noble idea is taking too long to be implemented. Without digitization of revenue collection, even the Kshs.270 million target will not be realised; we may only hit Kshs. 100 million. There is a lot of laxity on the Executive side but if the gaps we have raise can be addressed, revenue collection in this County will be easy. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you.

Member for Ukwala, Hon. Jack Odinga.

Hon. Odinga: Thank you. Mr.

Speaker, Sir, first I want to commend the Finance Committee for a job well done within a very short time. AS captured in their Report, it is very true that they received the Bill in the month of September; they were to look at it; conduct public participation and report to the House within the same period. I must congratulate them for moving with speed in a bid to beat the deadline.

Mr. Speaker, Sir, if you look at observation number one, the concern is on revenue collection. For the past two years, what we have been collecting as a County Government is below 5% of our total revenue. This has been a concern and remember when we were passing our budget; there was a proposal by the Executive. In fact we reduced this further by 200, the reduction was denied by this House and this is why we proposed at least 270. Although the House is not happy that revenue is going down while other

Counties keep on collecting more than they collected the previous year. This is a concern not only to this House but to the CRA, the previous week when we had a meeting Here with the CRA who are the allocators of money.

They said that Siaya County is among the least Counties that are collecting less than expected. Members will agree with me that whenever you are proposing to tax anybody which is obvious, we always get resistance because most of us don't like to contribute a single cent in terms of tax but as it is said in Swahili that "*kulipa ushuru ni kujitegemea*". The County Government cannot really rely on its own collections if it doesn't do what has been proposed in this Bill. I have looked at this and there is one most important strategy that they have come up with and that is by broadening the tax base but also there is a reduction in fees and charges in some areas. If this is implemented, you know when you broaden your tax base it means you are going to collect from more people.

It is a strategy which if implemented by the Executive then I believe we are going to collect more than 270. There was also an Act which we passed here, among the first Acts we passed, the tax exemption part which is already in place and is also quarterly in this Bill. I wonder because I have never seen anywhere any proposal by the CEC in charge of Finance but now this year we are proposing to waiver such and such on fee and charges and various people. When you go to a small market like Ukwala, you will find an old mama who has just come with something, not be trading purposes but something to earn a shilling or so which she can be able to use to buy a pen or a book for the granddaughter. These are the

people that deserve the waiver, we have an Act in place but it's not being implemented. My concern is that if we do pass such a very beautiful document but we end up putting it in the shelves and not implement it then as the County Government of Siaya people will think that we are not working towards their benefit. There is one key element that also needs to be done and this can be followed by this Committee that those who are going to implement this document also need to be educated. My colleague Hon. Margaret Oketch talked about civic education.

It is true that some of our people would even walk in the market with this document and since it has been categorized, we have category A, B and C; whereby category A will pay 100%, category B 70% and C 30% but u find somebody charging a fee for category A in category C. I would create an out roar, they also need to be educated and to ensure that they charge what is appropriate and in each and every category. Otherwise I think as the budget Committee, earlier we had looked at the document and recommended it although the nitty gritty of now changing some few items, those have been captured by this Committee and I also just want to remind them that there are some strategies which we started working on with the Executive on how to enhance revenue. I wish that the Committee will continue at the same checked strategies and ensure that revenue collection is enhanced in Siaya County Government.

I want to remind ourselves that passing this document is very key, it is a requirement that we have to do by today but also implementation of this document is also very key because some will end up charging even if you go down to market

centers in our towns and some are charging different rates. I want to urge the Committee that they ensure that whatever we pass Here today is also implemented down there, otherwise I support. Thank you.

Hon. Ngure: Thank you, Mr. Speaker, Sir. Having listened to the various contributions from this Bill and having read also thoroughly the Report, I first want to congratulate the Committee for working on this Report and us we have been made to understand that there is very little time to work on this and produce such a lovely Report. I stand Here to congratulate them.

Having listened to the various contributors on this Report and particularly to the Speaker who has just been on his feet to contribute, I find that we don't have much to continue with in terms of debate and perhaps our job now is to support and pass this Report. There are various lines which have been debated upon and which clearly state the matters of revenue collection like areas where we need to enhance and do work more urgently to make it realistic to collect revenue.

Like in the past and even now we have talked about the issue of doing our parking in this Siaya County, we cannot expect to collect taxes from the car owners in this town if the parking are not done properly and if such things will be worked on and parking areas are demarcated then we will find that money has been wasted in the past our revenue collection will be enhanced.

We need to do this more speedily and it has been brought up very clearly by previous speakers on the issues of revenue collection and therefore streamlining and perhaps also the matter of automation of revenue collection. If we have this Report

and we pass it and we don't follow on these lines as they are done and as clearly as they have been stated Here, we will still waste money. We are being told every now and again that money is within Siaya and if we collect these monies we should be crying that we don't have money so we better pass this Report and then follow that it's being implemented and that the monies that we see as not coming in our kitties will now come and therefore improve our status in Siaya.

Hon. Augo: Thank you, Mr. Speaker, Sir, for giving me a chance to add my voice to this Report. First of all, I would like to congratulate the Committee on Finance for a good Report. Let's look at number 5 page 10, we have been talking about automation of revenue collection in Siaya County, we are still using the old method of collecting revenue and this is why most of the time there is a short fall. We have discussed about automation of revenue collection before and we still don't know what the Executive is doing about it.

I attended public participation one time in Bondo, it wasn't easy to control the public. Holding two public participations in two sub counties in one place is horrible and I would like to tell this House that next time as they have recommended in their Report, it should not happen again because it was not easy to control the crowd. I really sympathized with the Committee and i would like to urge this House and the Committee should liaise with the Executive so that public participation especially the money Bills should be in each and every Ward.

The Executive said that they advertised it on radio, it was on the website and yet most of our people don't even visit the website and don't even listen

to radio. The public wanted to be given the Report prior to the public participation for them to have enough time to study them. The revenue department has no vehicles to transport revenue collected in the markets to the banks hence collectors keep the monies for more than three days waiting it to be collected. The Executive should provide them with a vehicle so that once the monies are collected they are taken straight to the bank.

The enforcement team is having a rough time implemented the law since most traders are protected by MCAs yet they are operating without licenses. If we really want this County to grow in terms of revenue collection, I urge MCAs not to protect their constituencies. On public participation, we need civic education because the only people who attended were young men and old men and no ladies. This means even if there was something that would affect women directly on the Bill, no woman was there to challenge it. Hon. Members lets try to urge the women from our Wards to be attending public participation.

Hon. Muhulah: Point of information.

Hon. Speaker: Yes.

Hon. Muhulah: Mr. Speaker, Sir, I wish to inform the Hon. Member that; that is carelessness on the women and not men. If men can go for those things then what are women thinking about.

Hon. Augo: Mr. Speaker, Sir, is that the right answer?

(Laughter)

Hon. Oketch: Point of Order!

Hon. Speaker: Interesting. Yes!

Hon. Oketch: I would like to ask Hon. Muhulah to withdraw his Statement

because that is intimidating our fellow women.

Hon. Speaker: What's the point of Order?

Hon. Oketch: Point of information.

Hon. Speaker: Hon. Muhulah, be warned against discriminating women, lets proceed.

(Laughter)

Hon. Augo: I mentioned that because and the women were saying that Hon. Members urged their Committees which are constituted by men to attend the public participation and they felt left out. As I rest my case, I just want to urge our Executive to come up with the By-laws so that they would help our enforcement officers because whenever they arrest a defaulter they don't know where to take them. We should have our laws to guide us in revenue collection. Thank you and I support.

Hon. Speaker: Just for information purposes this Assembly and the Committee while inviting the public for public participation on radios and newspapers never discriminate it, the Statement is all are invited and when we communicated to Members of the Assembly, we communicated to both male and female.

Hon. Awuor: Thank you, Mr. Speaker, Sir. May I take this chance to really thank you and the Members of this Assembly for having part and parcel of my family when I lost my mother and I think this is the time that I'm coming after three weeks since my mum was buried. I sincerely thank you and I want to take this chance to thank Members of the budget Committee and the Welfare Committee for

helping us raise funds. I would also like to thank Hon. Midiwo who represented their families at my mother's funeral. Sincerely, the Finance Committee has done a good job and I want to appreciate them. We have been talking about revenue collection in this County and we have allocated money for revenue automation so that we can also be compared with Counties like Kiambu and Kisumu.

Issues of Governance, issues of enforcement; three to four weeks ago together with the Governor of this County presided over the passing out of 51 member enforcement officers some were from the former local authority staff while others were newly recruited.

We said that we need to have by-laws; two weeks ago the Speaker committed to our Committee a proposed draft Bill from the Executive touching on the enforcement laws. I want to urge this House that when we bring the Bill before this House, I want to request this House that we need to look at it because when going to pass this Bill but they will go together hand in hand with the Bill; the Committee on Governance and Administration which is on enforcement laws of this County.

I want to urge the House that let us take Siaya first irrespective of our positions; I said this before the recruits begun working that when they go out they need to talk to our people very well and I think we are going to maximize the collections and not through harassment as the 'Kanjo' of Nairobi. Otherwise Mr. Speaker, Sir, I want to rest my case and really urge Members to support this.

Hon. Gare: Thank you Mr. Speaker, Sir. I'm also on my feet to support this Report. I'm a Member of this Committee, a lot has been said and I don't

want to repeat. Mine will be very brief, I just want to fault the Executive; during our public participation we got it rough just like it has been said by one Member in Bondo. However, I want to inform that after her departure the ladies attended and when you look at the attendance list of the 92 participants ladies are there.

They came after she had left and if anything she was one of the ladies and was supposed to talk to them to come. Many things have been said and I don't want to repeat.

The issue that I want to address is about the services. We have really tried to broaden the channel of collection of revenue in Siaya County. What is remaining is for the Executive to make sure that the services are also given. There is no way you can collect money from the markets, when toilets are not there. As politicians, when we are rung by our people is when we defend them. How do you collect revenue from this *mama* when there is not even a toilet in that market? It cannot work!

We are now going to collect revenue from *boda bodas* per stage, if we don't make for them shades, then why do we charge them. We want to encourage the Executive to move with speed to give services to our people so that we can get this revenue.

Where we had a problem was the issue of timeline but again together with that you realize that we were going to Bondo where the two sub counties are supposed to come for public participation, but the copies of the bills are not enough. To the extent that the public wanted to chase us away and we had to plead with them so that we look for these copies.

We want to challenge the Executive that this is something that they

2016 SIAYA COUNTY ASSEMBLY DEBATES

should look into and next time let us not have such kind of cases. What is remaining is the implementation.

The issue of automation and pilferages has been said, we are getting money but people are pocketing the money. Some of these revenue collectors have different receipts and they collect the money and keep the money. If we cannot go the digital route, we will not collect revenue in Siaya.

I want to end my contribution by saying that there is a problem which we experienced during public participation. This is about the *mama* who comes with little *mboga* looking for only Kshs. 30 and you want to charge her revenue. When we were looking at it, we found that the Waiver Act that we are talking of was not assented to by the Governor. We are at a fix because there are some people that you cannot go to and start to look for money from them for example an old *mama* coming with *mboga* in the evening only to get Kshs. 50 to go back home with. So we should look into it and I want to say that since we are going to the Committee of the Whole House may I take this opportunity to request or move that the Mover of the motion be called upon to reply. Thank you Mr. Speaker Sir.

Hon. Speaker: If there is no objection, the Mover will reply.

Hon. Munda: Thank you, Mr. Speaker, Sir, for calling me to reply. I would like to thank the Members for what they have done and even now as we are deliberating they have done a good job. The deliberations were healthy and I hope they will be of benefit to our County.

There were some issues that were raised, some have been answered. I need not to go back to them. The issue of a feasible license and permit has been a

problem to our fishing community. I think this Bill will now do something about it.

There was also the issue of public awareness which every Member cited and it is important that the public should be educated so that they know their rights and what they should also be charged in our markets and also everywhere that revenue is being collected. Revenue is not just in markets only. We have so many departments where revenues are being sourced from like hospitals so those things should be done in a good way.

I must reiterate that the Bill was brought to us late but in future this should not happen. We should be given ample time so that we can organize for public participation in good time so that each and every person gets a way of participating in this important Bill. It is done every year and we need to participate fully so that we get to see what the public thinks.

Hon. Members, may I request that the Bill be read for the second time.

(Question put and agreed to)

BILL

THE SIAYA COUNTY FINANCE BILL, 2016

Second Reading

COMMITTEE OF THE WHOLE HOUSE

[The Speaker (Hon. Okode) left the Chair]

IN THE COMMITTEE

[The Chairperson (Hon. Adera) took the Chair]

Clause 2

(Question that Clause 2 be part of the Bill)

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Question that Clause 2 be part of the Bill put and agreed to)
(Question that Clause 5 and 6 as amended be part of the Bill proposed)

Clause 3

(Question that Clause 5 and 6 as amended be part of the Bill put and agreed to)

Hon. Munda: Delete the sub-title 'Definitions' and insert 'Property rates, Trade Licenses and other Charges'

Clause 7

(Question that Clause 3 be amended proposed)

Hon. Munda: Delete 'Siaya County Rating Act 2014', remove 'Financial' and insert 'Finance', delete 2012 and insert 2015 (Revised).

(Question that Clause 3 be amended put and agreed to)

Clause 3

(Question that Clause 7 be amended proposed)

Hon. Munda: There be an additional amendment in Clause 3 as proposed by the Chair by deleting in the 5th line, the digit '2015' and inserting '2014' after the word at 'Act'.

(Question that Clause 7 be amended put and agreed to)

(Question that Clause 3 as amended be part of the Bill proposed)

(Question that Clause 3 as amended be part of the Bill put and agreed to)

Clause 8

Hon. Munda: Change the numbering of subsections as follows; insert '1' after '8' to read '8(1)', delete 'a' and insert '2', delete 'b' and insert '3', delete 'c' and insert '4', delete 'd' and insert '5'.

(Question that Clause 8 be amended proposed)

Clause 4

Hon. Munda: Insert a sub-title, 'No prejudice to National Economic Policies'

(Question that Clause 8 be amended put and agreed to)

(Question that Clause 4 be amended proposed)

(Question that Clause 4 be amended put and agreed to)

Clause 9

Clauses 5 and 6

Hon. Munda: Insert a new title between section 5 and 6; PART II – Taxes, Fees, Licenses and charges payable and rates applicable.

Hon. Munda: Change the numbering of subsections as follows; insert '1' after '9' to read '9(1)', Delete 'a' and insert '2', delete 'b' and insert '3', delete 'c' and insert '4'.

In 'b' delete 'or shall be evicted' and insert, 'in accordance with existing legislations and evictions' after the word 'months'.

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Question that Clause 9 be amended proposed)

(Question that Clause 9 be amended proposed and agreed to)

Clauses 10 -13

(Question that Clauses 10-13 be part of the Bill proposed)

(Question that Clauses 10-13 be part of the Bill put and agreed to)

Clause 14

Hon. Munda: Amendment of subtitle by deleting ‘Appointment’ and inserting ‘Designation’.

In the first line, insert ‘for finance’ between the words ‘committee’ and ‘member’.

Check the numbering of subsections as follows; insert ‘1’ after the digit ‘14’, delete ‘1’ and insert ‘2’. Change the subsequent numbers of the subsections to flow as per the above amendment.

Delete ‘appoint’ and insert ‘designate’.

(Question that Clause 14 be amended proposed)

(Question that Clause 14 be amended put and agreed to)

Clauses 15-19

(Question that Clauses 15-19 be part of the Bill proposed)

(Question that Clause 15-19 be part of the Bill put and agreed to)

SCHEDULE

Hon. Munda: Item 1, amount of rates: Delete ‘For the purposes of Section 6 of the Siaya County Rating Act 2014’ and insert ‘Pursuant to Section 3 and Section 8 of the Kenya Rating Act Cap 267 Article 287 of 1986 (Revised 2012).

Item 2, Waiver: Delete ‘For the purposes of Section 11 of the Siaya County Rating Act 2014’ and insert ‘Pursuant to Section 16 (2) of the Kenya Rating Act Cap 267 of 1986 (Revised 2012)’

Item 3, Interest: Delete ‘For the purposes of Section 12 of the Siaya County Rating Act 2014’ and insert, ‘Pursuant to Section 16 (3) and (4) of the Kenya Ratings Act Cap 267 (Revised 2012.)

(Question that the Schedule be amended proposed)

(Question that the Schedule be amended Bill put and agreed to)

Clause 20

Hon. Munda: Departments, we have the following:

Land Physical planning, Survey and Housing: Transport, Public Works, Roads and Infrastructure: Trade, Industry, Labour and Cooperative Development: Agriculture Livestock and Fisheries: Education, Youth, Gender and Social Services: Water, Environment and Natural Resources: Health Services: Public Service and Governance: ICT, Tourism, Culture and Wildlife Conservation: Memorandum of Objects and Reasons.

SCHEDULE AMENDMENTS

I beg to move that we move ahead on the said amendments; the Committee recommended that under Ground rent for

2016 SIAYA COUNTY ASSEMBLY DEBATES

T.O.L (per annum) the name of the item is amended in the Bill by deleting the word Ground and inserting ‘*stall*’.

On survey fees and beacons in the Finance Bill it was proposed that it should be Kshs. 6000 per beacon but the Committee recommended that it should be Kshs. 3,000 for the whole exercise and not per beacon The item is further amended by deleting per beacon.

The beacon certificate on that same page it was proposed that it be Kshs. 10,000 but the committee recommended that it should be Kshs. 3,000.

On residential developments Maisonettes, Bungalows& Single Storey buildings it was proposed that it be Kshs. 60 per square meter but the committee recommended that it should be Kshs. 30 per square meter.

On commercial developments Offices, Malls, Supermarkets, showroom, Hostels, Guesthouses, Commercial Apartments, Gated Developments it was proposed that it be Kshs. 70 per square meter and Kshs. 49 in the other category but the committee recommended that it should be per Kshs. 34 per square meter.

The Director of Housing for County Government houses. In Siaya, One bedroomed house was proposed at Kshs. 3000 but the committee recommended that it should be per Kshs. 2000. Two bedroomed house was proposed at Kshs. 5000 but the committee recommended that it should be Kshs. 4000.

In Bondo, One bedroomed house was proposed at Kshs. 3000 but the committee recommended that it should be Kshs. 2000. Two bedroomed house was proposed at Kshs. 5000 but the committee recommended that it should be Kshs. 4000.

In Yala, One bedroomed house was proposed at Kshs. 3000 but the committee recommended that it should be Kshs. 2000. Two bedroomed house was proposed at Kshs. 5000 but the committee recommended that it should be Kshs. 4000.

In Ukwala, One bedroomed house was proposed at Kshs. 2500 but the committee recommended that it should be Kshs. 1500. Two bedroomed house was proposed at Kshs. 4000 but the committee recommended that it should be Kshs. 3000.

On the bus park fees, it was proposed that it be Kshs. 30 but the committee recommended that it should be Kshs. 50 across the board.

On Kiosks: Light or temporary construction less than 5 square meters it was proposed that it should be

- a.) Kshs. 3500
- b.) Kshs. 1750
- c.) Kshs. 1750

but the committee recommended that it should be

- a.) Kshs. 2500
- b.) Kshs. 1750
- c.) Kshs. 1750

For the *boda boda* operators, the Finance Bill wanted them to pay Kshs. 2,400 per *boda boda* rider, but the Committee found it necessary that we categorize them into Towns. That means that Town A, the big Towns which are Bondo, Siaya etc. should be Ksh. 5000 per stage and Kshs. 3500 for the next categories which are Ndori, Akala etc. while the small markets were put at Ksh 1500. Those were the recommendations of the Committee on *boda boda*.

Other transport storage and communications, leisure Boat were not there but the Committee wanted this to be charged at Kshs. 2000 flat rate.

Betting control and related activities wasn't there but you can see there that New Group of items to be inserted after the column on small video shop (TV with no sports). On the Pool Table Application fee it wasn't there but you can see that the Committee put it at Ksh 250 across the board. The Pool Table License fee wasn't there but the Committee also saw it wise to put it at Ksh 2500 across the board.

The Amusement machine Application fee also wasn't there but the Committee saw it wise to put it at Ksh 250 across the board. The Amusement license fee also wasn't there but the Committee saw it wise to put it at Ksh 2000 across the board. The Amusement cash winning machine Application Fee also wasn't there but the Committee saw it wise to put it at Ksh 5000 across the board. The Amusement cash winning License also wasn't there but the Committee saw it wise to put it at Ksh 10,000 across the board given that this are new items.

On Accommodation and catering that is Butchery with roast meat and/or soup kitchen, we find that this are not found in Siaya and those who sell meat do not roast even though Hon. Munda loves it so much. It was put at Ksh 7000 across the board, but the Committee so it wise to cut it to Ksh 5000 for the big Towns and for the rest it was put at Ksh 3500.

On the liquor licensing we found that the charge given was very exorbitant hence the Committee found it wise to lower it from Ksh 100,000 to Ksh 50,000 while in the other category it was from Ksh 80,000 to Ksh 40,000 and the other

one was lowered from Ksh 50,000 to Ksh 25,000. I think the rest you can just read on your own and see what the Committee has done because I am seeing here they are very many.

The Chairperson: Hon. Munda we are not dealing with a Report, we are dealing with a Bill. Therefore you have to state them clearly and categorically so that Members can be aware of what is being amended and what is not.

Hon. Munda: Then let me try to move faster now! The supermarkets are from Ksh 80,000 to Ksh 40,000, Ksh 50,000 to Ksh 25,000, Ksh 30,000 to Ksh 15,000 and Ksh 15,000 to Ksh 7,500.

General retail alcoholic drink license (off license) are from Ksh 24,000 to Ksh 12,000, from Ksh 18000 to Ksh 9000, from Ksh 12,000 to Ksh 6000. Temporary or occasional alcoholic drink license, which is for people who just want to have fun at their homes, this was to be charged at Ksh 1000 but is now at Ksh 500.

On vegetables there is no much change apart from a Big Crate of Tomatoes which was at Ksh 100 but is now at Ksh 80 while a small crate Of Tomatoes is from Ksh 50 to Ksh 40. There were no changes on fruits as everything remained as it was. We did not have Cooperative societies but we still maintained things as they were in the Bill.

On Agriculture, forestry and natural resource extraction where we have fish boats (Application for registration) which was to be Ksh 1000 but the Committee decided to put it at Ksh 200 while the fish trading license and fish movement permit were left at Ksh 200 and Ksh 2000 respectively.

The Finance Bill had put fish caning at Ksh 5000 but the Committee cut

2016 SIAYA COUNTY ASSEMBLY DEBATES

it to Ksh 2500 for 1-5 cages as for 6-10 cages was put at Ksh 10,000 but we cut it to Ksh 5000 and over 10 cages was at Ksh 20,000 but we cut it to Ksh 10,000. Hatcheries were not there but still the Committee put an amount of Ksh 5,000.

Agricultural Cess (1% as prescribed by Agriculture Act. Legal notice No 120 of 1998) was also not there but the Committee gave a price on the hides and skins dealer license at Ksh 3500 and for the transportation the amount remain as put earlier for pick up, canter and lorry as indicated in their respective tables.

On education, youth affairs, sports and social services all the categories were maintained as indicated even though it was not there. Thank you.

The Chairperson: Yes, Hon Augo! What is it?

Hon. Augo: In the community development section we have the registration of CBOs and annual renewal for CBOs but we do not have self-help group here.

The Chairperson: Read the Bill this is just amendments.

(Schedules)

(Question, that the two Schedules be amended proposed)

(Question, that the two Schedules be amended put and agreed to)

The Chairperson: Hon Jack Odinga what is the matter?

Hon. Odinga: Chair I just wanted one clarification on page 16 of this Report. There is an item under liquor licensing, the last item which is local brew licensing. I

want that to come out clearly because from where I come from when you talk of local brews we only know of *changaa* and *busaa* and of cause we know there is no law that prohibits the preparation of the two, the law only provides that it has to be safe for the local *mwananchi*.

Am not getting clearly whether if the Ksh 2000 also includes the two brews and is it true that there were no earlier charges put by the National Government? Because there has been no fee, hence they are charging Ksh 2000 for a new product.

(Loud consultations)

Hon. Muhulah: We have always categorized this, but the Committee come up with a one-time charge across the board rate. That already concludes the spirit that this Bill was started with where we use charge according to the segmented areas.

The Chairperson: Maybe the Chair can clarify as you respond to Hon. Odinga's query. Chair!

Hon. Munda: The charges were not there earlier on the National Government Bill.

The Chairperson: Maybe he may not be in a position to give a substantive answer, but I think if there is someone who needs a proper answer then after the passage of this Bill they can then put the question so that the chair as well as the Committee can handle it

2016 SIAYA COUNTY ASSEMBLY DEBATES

competently and it must be within the confines of this Bill.

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

(Schedules)

(Question, that the three Schedules be amended as part of the Bill, proposed)

(Question, that the three Schedules be amended as part of the Bill, put and agreed to)

(Title)

(Question, that Title be part of the Bill, proposed)

(Question, that Title be part of the Bill, put and agreed to)

(Clause 1)

(Question, that Clause 1 be part of the Bill, proposed)

(Question, that Clause 1 be part of the Bill, put and agreed to)

Hon. Munda: Mr. Chairman, I beg to Move that the Committee do Report to the House its consideration of the Siaya County Finance Bill 2016 and its approval therefore with amendments.

(Question that the Committee Report to the House, put and agreed to)

The Chairperson: Hon. Members, I think as we wait for the Chair we should all be seated as he gets back to the House.

(Question proposed)

(Question put and agreed to)

(The House resumed)

Hon. Speaker: Yes chairman!

Hon. Adera: Thank you, Mr. Speaker, Sir, the Committee of the Whole House has considered the Siaya County Finance Bill 2016 and its approval therefore with amendments.

Hon. Speaker: Thank you. Chairman, Finance Committee.

Hon Munda: Mr. Speaker I beg to Move that the House do agree with the Committee in the said Report.

(Question proposed)

(Question put and agreed to)

Hon Munda: Mr. Speaker, Sir, I beg to Move that the Siaya County Finance Bill, 2016 be now read a third time.

(Question proposed)

(Question put and agreed to)

(Bill read a third time)

COMMUNICATION FROM THE CHAIR

INSURANCE CARDS

Hon. Speaker: Hon. Members, may I Communicate to you that the insurance cards are out but there are some problems here and there; so kindly go and check with the Payroll Office and if you have any problem, register those concerns there so that we have the right number; the right people and right names on those cards.

MOTION**ADJOURNMENT**

Hon. Speaker: Hon. Members
there being no other business, may you be
upstanding for adjournment.

*(All Hon. Members stood up in
their places)*

Hon. Speaker: Hon. Members, as
I said, soon after the Sitting, we will have
Members of the CORD Coalition converge
for just 3 minutes or so.

There being no other business, this
House adjourns until tomorrow the 4th of
October 2016 at 2.30 in the Chambers.

The House rose at 4.21 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 4TH OCTOBER, 2016

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

(The Speaker (Hon. Okode) in the Chair)

PRAYER

**COMMUNICATION FROM THE
CHAIR**

Hon. Speaker: I am deferring it to after Statements. Next Order!

PAPERS

**DRAFT COUNTY CO-OPERATIVE
DEVELOPMENT POLICY**

Hon. Speaker: Yes, Hon. Deputy Majority Leader.

Hon. Owii: Thank you very much, Mr. Speaker, Sir. Allow me to lay before this Hon. House The Draft Siaya County Co-operative Development Policy

(Hon. Owii laid the document on the Table)

Hon. Speaker: It stands committed. Next Order!

**COMMUNICATION FROM THE
CHAIR**

Hon. Speaker: Before adjournment, let me make my Communication:-

Hon. Members, welcome back from the long recess. May I take this opportunity to remind you that we will be in Session for another four weeks or so and this Session will be disrupted or adjourned again on 27th October for about

one week. So, Committees need to take cognizance of that.

I take this opportunity to Communicate to Committees to which we committed Bills before pre-publication that you have had the Bills for quite too long and it is here ordered that you liaise with the Legal Department and the respective Departments of the Executive to ensure that those Bills are brought to the Office of the Clerk for publication or action latest next week on Tuesday.

Secondly; you realize that when we go on long recess sometime I think in November or the first week of December, we will be away for a very long time and Committees of this House, most of them have so many pending businesses. It is hereby directed that Committees take their work more seriously and expeditiously handle all the Petitions, Statements and Reports that they have so that come that time, we will not have businesses pending.

Finally, because we have just opened and Committees don't seem to be ready with Reports, the Chair directs that the Liaison Committee convenes latest tomorrow morning at 10:00 am to make sure that Committees bring Reports as provided for in the Standing Orders and in adherence to deadlines. It is so ordered. Next Order!

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members, having communicated to you the fact that the House had informally agreed that Committees finalize their Reports between today and Tuesday next week which will be on the 11th, will you be upstanding for adjournment.

(All Hon. Members stood up in their places)

Having made that Communication, Hon. Members, this House adjourns until Tuesday next week, the 11th of October, 2016 at 2.30 pm in the Chambers, but Committee work to continue.

The House rose at 2.42 p.m.

TUESDAY, 11TH OCTOBER, 2016

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

(The Speaker (Hon. Okode) in the Chair)

PRAYER

COMMUNICATION FROM THE
CHAIR

VISITING STUDENTS

Hon. Speaker: Hon. Members, we have guests visiting us today for this afternoon session and they are from four students from Sihai Mixed secondary school. They have had an opportunity to tour the Assembly for an education excursion.

They have been taken through the functions of the Assembly, roles and functions of the Speaker, Committees, functions of the different departments, overview of the County, Theory and procedures of the County Assembly.

They have equally taken a group photo and requested to be with us today this afternoon to observe our Plenary sessions. They are accompanied by the following teachers:

1. Mr Chrispine Odhiambo
 2. Mr Muhamed Andula
 3. Madam Alice Atieno
- Would we also welcome all the students!

(Applause)

For both the teachers and students, feel most welcome and Siaya County Assembly is your Assembly of choice, your final destination and you are always welcome, anytime.

Hon. Gare: Hon. Speaker, Sir, on behalf of the Majority Leader, allow me to lay on the table of the House, the County Budget Review and Outlook Paper (CBROP) .

(Hon. Gare laid the paper on the Table)

Hon. Speaker: Yes!

Hon. Munda: Hon. Speaker, Sir, allow me to lay on the table of the House, the Committee report on the Alleged Unfair Trade practices and competition by Uganda Traders at selected beaches in Bondo and Rarieda sub-Counties, Siaya County.

(Hon. Munda laid the Report on the table)

Hon. Speaker: Yes, chairman, Committee on Water.

Hon. Agoko: Hon. Speaker, Sir, on behalf of the Chair, Committee on Water, Environment and Natural Resources, allow me to lay on the table of the House, the Committee response to statement request by Hon. Leonard Oriaro on Implementation status of the projects tenable in the FY 2014/2015 in Central Alego Ward.

Hon. Speaker: He is doing it on behalf of the Chair, Committee on Water, Environment and Natural Resources.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Agoko: And again, Hon. Speaker, I wish to lay on the floor of the House the report on status of Tree planting projects Tenable in the FY 2013/2014, 2014/2015 and 2015/2016 in the House, on behalf of the Chair Committee on Water.

(Hon. Agoko laid the document on the table)

Hon. Speaker: Thank you, next order!

NOTICES OF MOTIONS

REPORT OF COMMITTEE ON WATER,
ENVIRONMENT AND NATURAL RESOURCES
ON IMPLEMENTATION STATUS OF THE
PROJECTS TENABLE IN THE FY 2014/2015
IN CENTRAL ALEGO WARD

REPORT ON ALLEGED
UNFAIR TRADE PRACTICES AND
COMPETITION BY UGANDAN TRADERS AT
SELECTED BEACHES IN BONDO AND
RARIEDA SUB COUNTIES

Hon. Speaker: Chairman Water!

Hon. Agoko: Thank you, Mr. Speaker. On behalf of the Chair, Committee on Water, Environment and Natural Resources, I wish to give a Notice of Motion:-

THAT tomorrow afternoon, the House goes through the report of Committee on Water, Environment and Natural Resources on implementation status of the projects tenable in the FY 2014/2015 in Central Alego Ward.

Hon. Munda: Mr. Speaker, I wish to give a Notice of Motion of the report on alleged Unfair trade practices and competition by Ugandan traders at selected beaches in

Bondo and Rarieda Sub Counties, Siaya County, on Thursday afternoon

Hon. Speaker: I didn't capture for tomorrow morning!

Hon. Agoko: For tomorrow morning, it's report on implementation of projects in Central Alego Ward and in the afternoon we shall have a report on tree planting.

Hon. Speaker: So, I direct that the secretariat to produce enough copies especially for tomorrow reports and be circulated to all Members before they leave today so that they can go through those reports before debate commences tomorrow. Next order!

STATEMENTS

Hon. Speaker: I just want to, by way of gauging the Statements that are in Committees, ask Members whose Statements have not been answered by Committees to date to have this opportunity to remind us so that the respective Chairs in various Committees can also have their minds jogged.

Now as a House, we will not allow a situation where Statements are sought for and they take forever, you will be perceived to be sleeping on the job. Yes, Hon. Oriaro!

Hon. Oriaro: Thank you, Mr. Speaker. Two Statements are yet to be reported on. One was the conflict on boundary between Central Alego Ward and West Alego Ward. Number two, was a report ---on the lowage of what County Government is planning over the compensation of the families who surrendered land for the construction of Lake Kanyaboli Community Health Centre in the 2016/2017 FY.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Speaker: Yes, Hon. Aneme!

Hon. Aneme: We seem to have been listening to a person who is a stranger in the House. Is it in order for such a stranger to come and address the House?

(Applause)

Hon. Speaker: Hon. Member, if you are a stranger, I withdraw my reference to you as a Hon. Member. So will you be ---properly in this House!

(Laughter)

Hon. Speaker: I am sorry; I gave him a chance because his face looked like the MCA for Central Alego.

(Laughter)

It must be his twin brother!

(Laughter)

Hon. Okuku: Thank you, Mr. Speaker, Sir, for giving me this opportunity to remind the House of a Statement I requested sometime back. Before I do that, I must say that this morning, I was involved in the Yala Swamp survey and Hon. Agoko chaired the Water Committee meeting and that is why Members requested him to lay the Report on behalf of the Committee and the Chairperson.

Hon. Speaker: Accepted.

Hon. Okuku: Mr. Speaker, Sir, sometime back I requested for a Statement regarding the substantive CEC Member for Agriculture and the issue of a court injunction. The Committees of Governance and Administration and Agriculture should know that my mind is still very fresh and I still want to know the

substantive CEC member in the Agriculture docket.

Hon. Speaker: Which Committee was the Statement referred to?

Hon. Awuor: Mr. Speaker, Sir, the Statement was referred to an ad-hoc Committee made up of three different Committees namely; Governance and Administration, Agriculture and Delegated Legislation. We have had sessions and we elected the Chairperson and his vice. I don't want to speak on behalf of the Committee but I would kindly ask my colleague, Hon. Agoko to update the House on our progress and plans.

Hon. Agoko: Mr. Speaker, Sir, we have had deliberations and engagements with the Executive and we have almost compiled the report.

Hon. Ndonji: Point of order, Mr. Speaker, Sir!

Hon. Speaker: Yes, Hon. Ndonji.

Hon. Ndonji: Mr. Speaker, Sir, with due respect, I think you have just asked Members to remind the House of the Statement requests they have brought to the House but have not been responded to. You never talked of progress reports! I don't understand what we are debating now.

Hon. Speaker: I agree with you, Hon. Ndonji, but it is the same Speaker who gave them the authority to speak.

(Laughter)

Hon. Agoko: Mr. Speaker, Sir, I find it just prudent enough to update the House.

Hon. Speaker: That's fine.

Hon. Agoko: I want to say that in the next one week we will be able to give a substantive Report.

(Hon. Oriaro walked into the House)

Hon. Speaker: Any other Member with a contribution?

Hon. Oriaro: Thank you, Chair. There was a Statement request directed to the Chair of the Lands Committee on the boundary dispute between Central Alego Ward and West Alego Ward at the Ndai area.

Secondly; there was also a Statement on the compensation of the families who surrendered land for the construction of Lake Kanyaboli Community Health Centre which is already in use and there was a budgetary allocation of Kshs. 200,000 in the Financial Year 15/16.

(Hon. Ochieng' walked into the House)

Lastly, committed to Chair of Agriculture, there was the issue of Aram livestock building where the contractor was yet to be paid several months later yet the building is already in use. Thank you, Mr. Speaker, Sir.

Hon. Ndonji: Mr. Speaker, Sir, just before we proceed, I tend to think that justice should be done without favoring one side. I want to bring it to your attention that a Member has just walked into the House and just like the Hon. Member seated next to me who was not appropriately dressed, he too is not dressed appropriately. So, I am requesting that, Hon...

(Laughter)

...Hon. Willis Ochieng' should not be in this House due to his inappropriate dress code. This is a House of rules and procedure and we cannot be breaking them every now and then. We cannot be

reminded every day on how we should dress while in the Chambers.

So, Mr. Speaker, Sir, I am requesting you to rule on how Hon. Willis Ochieng' has entered the House today unless it's his twin brother who doesn't know the procedures of this House. Thank you, Mr. Speaker, Sir.

(Laughter)

(Applause)

Hon. Speaker: Hon. Willis Ochieng who has come here and is improperly dressed, don't make us confirm that you are not a Kenyan. Some of our colleagues have been gossiping that you are a Ugandan.

(Laughter)

Hon. Apiyo: Thank you, Mr. Speaker, Sir, on behalf of the Roads Committee, there was a Statement request from Hon. Peter Muhula of West Alego, dated 5th May, 2016. Hon. Muhula was requesting the Committee to explain why the construction along Hawinga-Sirindi road has not been completed and measures in place to ensure this road is within this financial year. He also wanted the Committee to further explain circumstances that cause work along Sirombi road not to begin considering the - - concept considering that the side road has been rendered impassable during the rainy season.

I want to confirm before this Hon. House that we are almost done and we are on our last stage on doing the Report, actually it was tabled last Thursday before the Liaison Committee and we requested to go and do the Report and bring it back before the Hon. House. On the same note,

2016 SIAYA COUNTY ASSEMBLY DEBATES

Mr. Speaker, Sir, through our Chair, I also had a Statement which I Tabled on 18th February, 2016, it was subjected to the Chairperson of Education Committee and another one was Finance; the transaction of 92million which was requested on the same date which was subjected to the Budget Committee. Maybe they can clarify before the Hon. House when they will bring the Report.

Hon. Speaker: Education Chairperson, do you have anything to that effect?

Hon. Adida: Thank you, Mr. Speaker, Sir; in regards to the Statement of Kshs 4million, our Committee transacted our business and our recommendation was that we refer it to the PIC/PAC, thank you.

Hon. Speaker: ...to PIC/PAC?

Hon. Adida: We brought our Report to the Assembly and through our recommendation, we left the matter to PIC/PAC to follow up and I heard that they are working on the Report and they are yet to Table it in the House.

Hon. Speaker: Just for clarification, when Members ask for Statements, do we engage them also as we engage the Executive? Do we even share with them whether the Report is ready or we don't? In this particular one, did you engage the Member who asked the question?

Hon. Adida: We came up with our Report and did the necessary based on the Statement and even followed up with the Executive but the information wasn't sufficient to us and so we did a Report and we even recommended that PIC/PAC do the follow up because the information was not sufficient.

Hon. Speaker: Do we have the Chair, formerly Finance, Budget and Appropriations, we don't have any? Yes!

Hon. Abayo: The Chair and the Vice Chair are not in, Mr. Speaker, Sir. The Statement by Hon. Apiyo on 92million was transferred from Health to County Executive's account. This is one thing we had discussed and we are on the final steps. That Report should be brought Here for presentation. I remember the last time it came, I think there was a lot to talk about and when I asked the Vice Chair, he confirmed that the Report should be ready.

Hon. Speaker: Yes, Hon. Okuku.

Hon. Okuku: Mr. Speaker, Sir, I do sit in the PIC/PAC Committee and as Committee we have not seen an official Statement brought to us.

Hon. Speaker: Hon. Members, allow me to direct because we cannot continue like this, that the Clerk's department gets us a list of all the questions that have been asked before, when they were asked, who asked the questions, to which Committee was the question committed and then we would want to release the list of shame on Thursday.

So that we will know what the status of the Statements or the questions that we asked is, then we will use that Report to take to liaison Committee so that we will engage there as equals and know when to give us back a Report to the House. Thank you. Hon. Willis Ochieng who has come Here and is improperly dressed, don't make us confirm that you are not a Kenyan. Some of our colleagues have been gossiping that you are a Ugandan.

(Laughter)

Hon. Speaker: Yes, Hon. Apiyo.

Hon. Apiyo: Thank you, Mr. Speaker, Sir, on behalf of the Roads Committee, there was a Statement request

from Hon. Peter Muhula of West Alego, dated 5th May, 2016. Hon. Muhula was requesting the Committee to explain why the construction along Hawinga-Sirindi road has not been completed and measures in place to ensure this road is factored in this financial year.

He also wanted the Committee to further explain circumstances that cause work along Sirombi road not to begin considering that the side road has been rendered impassable during the rainy season.

I want to confirm before this Hon. House that we are almost done and we are on our last stage of doing the Report, actually it was tabled last Thursday before the Liaison Committee and we requested to go and do the Report and bring it back before the Hon. House.

On the same note, Mr. Speaker, Sir, through our Chair, I also had a Statement which I Tabled on 18th February, 2016, it was subjected to the Chairperson of Education Committee and another one was Finance, the transaction of 92million which was requested on the same date which was subjected to the Budget Committee. Maybe they can clarify before the Hon. House when they will bring the Report.

Hon. Speaker: Education Chairperson, do you have anything to that effect?

Hon. Adida: Thank you, Mr. Speaker, Sir; in regards to the Statement of Kshs 4million, our Committee transacted our business and our recommendation was that we refer it to the PIC/PAC, thank you.

Hon. Speaker: ...to PICPAC?

Hon. Adida: We brought our Report to the Assembly and through our recommendation, we left the matter to PIC/PAC to follow up and I heard that

they are working on the Report and they are yet to Table it in the House.

Hon. Speaker: Just for clarification, when Members ask for Statements, do we engage them also as we engage the Executive? Do we even share with them whether the Report is ready or we don't? In this particular one did you engage the Member who asked the question?

Hon. Adida: We came up with our Report and did the necessary based on the Statement and even followed up with the Executive but the information wasn't sufficient to us and so we did a Report and we even recommended that PIC/PAC do the follow up because the information was not sufficient.

Hon. Speaker: Do we have the Chair formerly Finance, Budget and Appropriations, we don't have any? Yes!

Hon. Abayo: The Chair and the Vice Chair are not in, Mr. Speaker, Sir; the Statement by Hon. Apiyo on Kshs. 92million was transferred from Health to County Executive's account. This is one thing we had discussed and we are on the final steps. That Report should be brought Here for presentation. I remember the last time it came, I think there was a lot to talk about and when I asked the Vice Chair, he confirmed that the Report should be ready.

Hon. Speaker: Yes, Hon. Okuku.

Hon. Okuku: Mr. Speaker, Sir, I do sit in the PIC/PAC Committee and as a Committee; we have not seen an official Statement brought to us.

Hon. Speaker: Hon. Members, allow me to direct because we cannot continue like this that the Clerk's department gets us a list of all the questions that have been asked before, when they were asked, who asked the questions, to which Committee was the

2016 SIAYA COUNTY ASSEMBLY DEBATES

question committed and then we would want to release the list of shame on Thursday. So that we will know what is the status of the Statements or the questions that we asked then we will use that Report to take to liaison Committee so that we will gauge there as equals and know when to give us back a Report to the House. Thank you. Yes, Hon. Elisha!

Hon. Okuku: I do sit in the PIC and PAC Committee, and as a committee, we have not seen a Statement officially brought before us.

Hon. Speaker: Hon. Members, allow me to direct, because we cannot continue like this, that the clerks department gets us a list of all the questions that have been asked before, when they were asked, who asked the question, to which committee was the question committed and then we would want to release the list of shame on Thursday.

So that we will know what the status of the questions that we asked is. We will then take that Report to the Liaison Committee so that we engage there as equals and know when to give us the Report back to the House. Thank you.

Hon. Owii: Thank you so much, Mr. Speaker.

Hon. Speaker: Are you rising on Order 7 or Order 8?

Hon. Owii: I rise on Order 8.

Hon. Speaker: Do you want to share with us the program for this week? You are out of Order!

(Laughter)

There is no room for that, if you find a cheeky Assembly and there is no business, then you pass a Motion that there is no Adjournment, so you sit here forever. So when there is no business then we adjourn without question being put. Are you consulting?

Hon. Owii: Yes.

Hon. Speaker: You want to share business for the week?

Hon. Owii: Yes.

Hon. Speaker: So, we will go back to Order 7.

STATEMENT

TENTATIVE HOUSE BUSINESS

Hon. Owii: Thank you very much, Mr. Speaker, Sir, Allow me before this Hon. House to place business for the week that begins 11th October – 13th October 2016.

It is notified that the House Business Committee in their last meeting approved the following tentative Business to appear on the Order Papers of the week commencing 11th October 2016 which is today to Thursday 13th October 2016. On 11th October 2016 which is today, the following Papers were supposed to be laid:

The Report of the Committee on Water, Environment and Natural Resources on implementation status of the projects tenable in the FY 2014/2015 in Central Alego Ward.

The Report of the Committee on Water, Environment and Natural Resources on status of tree planting projects tenable in the Financial Year 2013/2014, 2014/2015 and 2015/2016.

The Report of Committee Trade, Industry and Cooperative on the unfair trading practices and competition by Ugandan traders at selected beaches in Bondo and Rarieda sub counties.

On Wednesday, 12th October, 2016 morning Sitting, there will be the Report of the Committee on Water, Environment and Natural Resources on implementation status of the projects tenable in the FY 2014/2015 in Central Alego Ward.

2016 SIAYA COUNTY ASSEMBLY DEBATES

On Wednesday, 12th October, 2016 afternoon sitting, the Report on Water, Environment and Natural Resources on status of tree planting projects tenable in the Financial Year 2013/2014, 2014/2015 and 2015/2016

On Thursday, 13th October, 2016 afternoon sitting, The Report on Committee Trade, Industry and Cooperative on unfair trading practices and competition by Ugandan traders at selected beaches in Bondo and Rarieda sub counties.

Thank you, Mr. Speaker, Sir.

Hon. Speaker: Hon. Kowii can I ask you to use this opportunity to mobilize the Members to turn up for the Debate tomorrow as I wait for another distinguished Member to arrive.

Hon. Gare: Thank you, Mr. Speaker, Sir, for giving me this opportunity. May I take this opportunity to request our Members that just as we are aware, we are back and our Session is on from tomorrow morning, the whole day and afternoon. We want to request that you be on time tomorrow so that we don't delay with our session as usual. We know some of you are coming from very far like Hon. Apiyo Apiyo, but we want to request that you try so that we reach on time.

Otherwise, I want to request that after this, you give me time I remain with the Members, I have information from the ODM offices that I want to pass to our Members.

Hon. Speaker: Hon. Members, before we go to Order 8, allow me to make this communication as has been put by the Majority Whip, that Members of the CORD Coalition to remain behind after our adjournment.

Secondly, we have been joined this afternoon by a distinguished member of

this country, Former MP for Kasarani, Hon. William Omondi.

(Applause)

So, the Hon. Member feel most welcome to Siaya County Assembly any time. Thank you, do you welcome him in our midst?

(Applause)

He has been accompanied by very distinguished Kenyans whose names I will not mention today.

(Applause)

There being no other Business, Hon. Members will you be upstanding for adjournment.

There being no other Business, this House adjourns until tomorrow the 12th of October, 2016 at 9.30 a.m. in the Chambers.

The House rose at 3.54 p.m.

WEDNESDAY, 12TH OCTOBER, 2016

The House met at the County Assembly Chambers at 9.30 p.m.

[The Temporary deputy Speaker (Hon. Abayo) in the Chair]

PRAYER

(The Temporary deputy Speaker and the Clerk-at-the-Table consulted)

MOTION

**IMPLEMENTATION STATUS
OF THE PROJECTS TENABLE IN THE
FY 2014/15 IN CENTRAL ALEGO
WARD**

Hon. Okuku: I stand to Move a Motion:-

THAT this House adopts the response of the Committee on Water, Environment and Natural Resources on Implementation Status of the projects tenable in the FY 2014/15 in Central Alego Ward. Mr. Temporary Speaker, Sir, the Notice of Motion was put the previous day and I believe that Members took copies yesterday.

COMMITTEE MANDATE

Mr. Temporary Speaker, Sir,

The Sectoral Committee on Water, Environment and Natural Resources is constituted under the standing order 200 (1) of the Assembly Standing Order and is mandated to all matters related to Water, Sanitation and Irrigation Services.

Committee Membership is listed down right from the Chair to the last person.

I have the honor and privilege to present the response on the Statement request by Hon. Oriaro on the

implementation status of the projects tenable in the financial year 2014/2015 and reasons for such status thereof. On 5th May 2016, Hon. Leonard Oriaro did issue a Statement in this Honorable House and sought response for the following:

1. Rehabilitation and fencing of Uyugu Shallow wells- @Kshs. 200,000.
2. Rehabilitation and fencing of Rarieda Uyore Shallow well @ksh200, 000.
3. Rehabilitation and protective fencing of Liganwa Shallow Well @ksh200, 000.
4. Rehabilitation and protective fencing of Komol Village Community Water project @kshs.200, 000.

Acknowledgement

Mr. Temporary Speaker, Sir,
The Committee appreciates and commends the office of the Speaker and the Office of the Clerk of County Assembly of Siaya for the support and facilitation extended to the committee in execution of its mandate.

STRATEGY ADOPTED

The Committee did invite the CEC Member of water and her technical team to a Committee meeting held on 18th July 2016. The CECM response was as follows: (see attached response)

- ❖ **Uyugu Shallow Well** rehabilitation tender was awarded to Kadenge

support group at a contract sum of ksh.200, 000 in early May 2016. However, the contractor has not started rehabilitating the well. The department of Water and Environment has since advised the procurement office to re-tender the project.

- ❖ **Rarieda Uyore Shallow Well** rehabilitation tender was awarded to Ten brothers Youth Group at a contract sum of kshs.200, 000 .The project was completed and handed over to the community in December 2015. However the pump broke down and the department of water and environment instructed the contractor to repair it. The liability period of the project has not elapsed and therefore the contractor is still liable to repair the broken pump. Should the liability period elapse before the pump is repaired then the retention fees will be used to carry out the repair work. The CECM also mentioned that a new replacement of the water pump will cost kshs.6, 000.

- ❖ **Liganwa Shallow Well** rehabilitation tender was awarded to Kaya Youth Group at a contract sum of 200,000ksh. The project was handed over to the community in July 2016. The well is operational.

- ❖ **Komol Shallow Well** rehabilitation tender was awarded to Komol Women Group at a contract sum of ksh.200, 000. The well was successfully completed and it's operational.

The CECM emphasized that the project was quantified by the sub- county water officer for Alego Usonga, thus the

department developed bill of quantities from the quotations. (see copy attached)

KEY FINDINGS AND OBSERVATIONS OF MEMBERS

Mr. Temporary Speaker, Sir,
The Committee inspected these projects on 8th August 2016 and observed the following:

- **Rarieda Uyore Shallow Well** only functioned for three months after its completion in December 2015 and the repair work is yet to be done.
- **Liganwa Shallow Well** is operational as observed by members and confirmed by members of the public using the well. The well was handed over to the community in July 2016 and its serving over 45 households. Community members using this well are contributing a sum of 20ksh per household per month to cater for maintenance of the Well.
- **Komol Shallow Well** is operational and serving over 82 household's .The community depending on the shallow well contribute a monthly sum of 50ksh per household to cater for any maintenance done to the well.
- **Uyugu Shallow Well** has not been rehabilitated and is in a dilapidated state.

RECOMMENDATIONS

Mr. Temporary Speaker, Sir,

- As observed by it is clear that the Wells in Komol and liganwa are serving too many

2016 SIAYA COUNTY ASSEMBLY DEBATES

households and therefore the committee recommends that more wells be dug or rehabilitated around these areas to ease the pressure on these two wells.

- Community members relying on these wells should be empowered to take care of these well by contributing a monthly sum that will help in maintenance of these wells.
- The committee recommends that the department of water and environment re tender of Uyugu Shallow Well rehabilitation project.
- The committee also recommends that the Department Of Water and Environment to constantly supervise these shallow well to ensure their sustainability.

Hon. Munda: Seconded.

(Question proposed)

Hon. Oriaro: Thank you. Mr. Temporary Speaker, Sir, I want to laud the work done by the Water Committee. This Report answers the concerns I raised in my Statement request. I agree with the recommendation that the wells in Komol and Liganwa serve too many households and this addresses me as their representative. I want to inform the House that on the Komol side, now that the ‘Siaya-China water’ has reached Bar Olengo and we have made several roads, it would be my duty to push it through subsequent public budget hearings so that we supply piped water along that line.

It is also true that in the Financial Year 2015/2016, there was a plan to pipe

Liganwa primary school. This will serve the whole area. At Pal Pal, which is also around this place, there is a program by the World Bank and the community of expanding borehole supply lines in Koyoo sub location and also Kakumu Kombewa. The first recommendation will be addressed and because there is also a possibility of extending pipe lines from Segere towards places along the county roads we have so far constructed, it would be easy for me to team up with my people in financing this.

I am very happy that it is reported that communities are paying something small towards the aspect of repairs and sustainability. The only area we did not observe, Mr. Temporary Speaker, Sir, was the tradition in the previous regimes of water management funded by the national government and organizations like UNICEF where there used to be a component of management training. I was thinking that out of the allocation, something like Kshs. 20,000 would be used for management training. So, in future, it would be good for the Water Committee to push this matter so that it becomes a policy such that any water points constructed by the county government, the aspect of training is considered for accessibility and sustainability.

Lastly, Mr. Temporary Speaker, Sir, the department ought to have come up with draconian grounds; ‘Draco’ was a Greek legislator who came up with stern measures. It is not the duty of the House to be reminding the Department when a contractor fails to report on site. I support the Report. Thank you.

Hon. Munda: Thank you, Mr. Temporary Speaker, Sir, for granting me the opportunity to also air my views on

this Report. I am a member of the Water Committee and I must appreciate my colleagues for a job well done. I also want to thank the Member for Central Alego for raising this issue. This is an indication that he is serious about matters of development in his Ward.

Mr. Temporary Speaker, Sir, as indicated in our recommendations, it is true that the wells in Komol and Liganwa are serving too many households and there is need to ease the pressure on the two wells by digging and rehabilitating more wells around those villages.

The Water Department should also be serious in supervising the shallow wells to ensure their sustainability. Many water wells are dilapidated because they are not well taken care of.

Mr. Temporary Speaker, Sir, I don't have much to say but just to urge the House to support this Report. Thank you.

Hon. Gare: Thank you, Mr. Temporary Speaker, Sir. First and foremost, may I also take this opportunity to thank the Committee for the work well done. From his contribution, it seems the Member who sought for this Statement is actually convinced with the response.

What I want to tell Members is that some of these questions can be addressed directly with the CECs. They must not all come to the Assembly. As representatives we have the privilege to walk directly into their offices and raise concerns. For Hon. Oriaro, we understand that he had to go this route because those were those days. Nowadays I know he can directly pose these questions to the CECs.

(Laughter)

Mr. Temporary Speaker, Sir, I also want to say that those of us who come

from Bondo Sub-County are not privileged to have water because the water levels are so deep and therefore we cannot dig the wells. The only way we can do it is through extension of lines and dams.

As we are aware, SIBO which is supposed to manage this water is actually dead, and Bondo and parts of Rarieda are seriously suffering from the shortage of water. Just the other day Bondo people were in the streets demonstrating about the serious crisis of water which we had in Bondo.

I want to request the Water Department to look at it and we see a way forward because it seems SIBO is actually not able to manage the water in Siaya County and water is life. We want to encourage Hon. Oriaro to be seeking these kinds of Statements. He was concerned about his people, because if we don't have enough water, our people will be dying.

In Siaya County, and kindly let us not look at it as Central Alego Ward only, we are having water crisis simply because there is a body which was supposed to manage water in the County and it cannot manage it. We are really suffering, for this one I think Hon. Oriaro is home and dry. Thank you, Mr. Speaker, Sir.

The Temporary Deputy Speaker (Hon. Abayo): I just want to remind Hon. Gare that the Report is so clear, it was on Central Alego. Should there be issues of water in Bondo, I think that needs to be given due attention. Action needs to be taken, whether by Hon. Gare or the Committee, someone needs to take up that issue, otherwise today we are on Central Alego.

Yes Hon. Andiego.

Hon. Andiego: Thank you, The Temporary Deputy Speaker, Sir, I also want to take this opportunity to thank very

much the Committee on Water. I also want to thank Hon. Oriaro for bringing this Statement to the Assembly.

Indeed the whole of Siaya County and not only Central Alego is in crisis of water and I want to request the Committee that they should also take their time and move around and see exactly what is happening because we cannot live without water.

As has been stated by Hon. Gare, Bondo as a town is graded as the second biggest town in Siaya but in reality Bondo is the first town. It is sad, very sad indeed for Bondo town to be lacking water for the last one year. I know it is not part of the Report, but I am just requesting verbally that something must be done. I am requesting the Committee, as our able Chair is here, that they should take a visit and meet the traders in Bondo and talk to them and find out where the problem is because it is a crisis.

There is this water project that was being done on River Yala which has been stalled. We were promised this water many years ago, that it would serve us very well in the County. Since its inception, we have seen big tanks in many areas being placed but it has now become dormant and we don't know what is happening.

If it is the National Government which is to do it, and we know that water is devolved, action should be taken immediately. A rumor has it that the President must come and open it and that is why it is not working. We don't need the President to come and open water project which is our basic need. Something should be done; we should use the water as we wait for The President to come.

Otherwise, I request the Committee, that it is a very good that water project is being done in the County

so something should be done so that our people have the water otherwise thank you.

The Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. Joseph Agoko.

Hon. Agoko: Thank you, The Temporary Deputy Speaker, Sir, I want to appreciate the Committee which I am a Member of, for work well done. We need to prod the Executive to train the management committees of these water wells because they need to have strong management committees for sustainability, maintenance and to ensure that there is good use of the same.

You realize that in our work as we went round, some water consumers from the well were contributing Kshs. 20 and where they are contributing this amount they were only 45 households and in the other one where there are 82 households Members were contributing Kshs. 50 meaning that in this particular group should the pump break down which costs around Kshs. 6000 then we would easily be able to replace it or repair it and this one contributing Kshs. 20 may not be able to do it.

In our recommendations, we recommended that at least all the groups or the water well should contribute at least Kshs. 50 from each household per month. It could have been a typing error but it was omitted but then I want it to appear in our recommendation that they contribute Kshs. 50 each from each household so that those that are contributing Kshs. 20 to upscale it to Kshs. 50. All the other groups that are not doing the same should be advised to capacity build to understand and appreciate that if they fail to contribute then sustainability measures are not guaranteed.

I also wish to say that as has been alluded by the last two speakers about the cry of water in Siaya County, our Committee under our able Chair, Hon. Elisha Okuku, realizing that water is not 100% devolved and its key sectors in water are still managed by the National Government the Committee took it upon itself to visit the Cabinet Secretary for water Hon. Eugene Wamalwa to inquire on the methods they are putting in place to ensure that the entire County gets sufficient water and on the same note we will be bringing a Report here that details our entire trip and all that we discussed and deliberations.

However the supplies in Bondo could resume or could begin operations from Yala by the end of this week. On the 28th of this month it has been notified to us that the President will be coming to officially open it and by the end of this week the Cabinet Secretary will be visiting to ensure water start operating. Thank you.

The Temporary Deputy Speaker (Hon. Abayo): Thank you. You have addressed a number of issues that have been raised. Hon. Gare, the water will be coming to Bondo soon. The Members of the Committee are telling the House.

Yes Hon. Zilpah.

Hon. Omondi: Thank you, The Temporary Deputy Speaker, Sir, I want to thank the Committee for this Report. I think it is the women who bear the brunt of water shortage. In this Report we are just looking at a few shallow wells that were stated. But I would urge the Ward Reps to ensure that water reaches very close to the homes because when there is no water, it is the women who have to go and fetch this water and they take many hours looking for this commodity that is so precious at the expense of other duties at home. They

neglect their duties and economic activities. If you have been selling in the market, you cannot go to the market to sell when you don't have water. More of our resources should be put into water so that water is available not only in Central Alego but in other parts.

In Central Alego I would urge the MCA to ensure that there are more shallow wells because last year there was this outbreak of cholera. I think Central Alego bore the brunt of that disease. Many people in that Ward simply perished and we know that many people get cholera from drinking unsafe water. If we have many shallow wells that are protected then we ensure that our people will have clean water and we will not spend money.

Looking at the Report, it is also curious to me that every shallow well that is repaired the BQ is Kshs. 20,000. How comes? Does it mean that any well that breaks, all the breakages are the same. I tend to think that that is a little bit curious. I think proper BQ should be done even if it is rehabilitation. It is not just a matter of putting a figure that you have pressure on technical staff. Otherwise I agree with everybody here that water should reach every part of Siaya County not only few areas but all parts of the County so that people use clean water and their health will improve because cholera kills people so fast and it is something that can be taken care of with clean water. I support this Report, Thank you.

Hon. Omar: Thank you, The Temporary Deputy Speaker, Sir; I have a few sentiments to put across. First of all, I would like to commend the Committee on water for good work done. I want to talk about the supervision; this was recommendation 4, for all projects to last longer, there must be proper supervision

by the departments involved, in this case, Department of Water but if you look at the response from the Department of Water, they have stated that they are strained in terms of technical staff. Which means they cannot carry out proper supervision.

So, I think the Committee could have also put this as a recommendation, that the Department of Water should employ more staff so that they should carry out proper supervision which will make this project to be fine. This will also help during the time when the project is being handed over to the community; there must be a staff of the department to ascertain that the work that has been done is per its recommendations.

Number two is, on retendering of Uyugu Shallow Well. The department informed the Committee that the Uyugu shallow Well communicated with the department of procurement on retendering this project. But the Committee did not go further to ensure that they have really written a letter to the Department of Procurement. There is no evidence in this report that this is the letter from the Department of Water to the Procurement Department. Otherwise they have done a good work and thank you, very much.

Hon. Augo: Thank you, Mr. Temporary Speaker, for giving me this time to add my voice to this debate. First of all I want to commend the Committee on Water for the good work in finding out the problems in Central Alego. As my colleague Hon. Zilpa has said, the problem of water is for the women. Where I come from, in North Sakwa, we have some parts whereby women travel as far as 8kms searching for water. The Wells are dry, they don't have anywhere to find water and the problem with these Sibbo people, anytime there is a problem of water,

people have to strike and walk on the streets and that is when they wake up to give people water. Is it only Sibbo that can give us water in Bondo or in Siaya? We must look into that.

I want to ask my Hon. Committee on Water, please do your research in Bondo because the tap water doesn't help us so much. The tap water helps only the people in urban areas not rural areas. The rural areas depend on the dams and if the dams are not repaired and there is no water, it is difficult for them.

In West Asembo, you hear on radios that people were demonstrating and they were talking all kind of nonsense because there is no water! We want you, to do a thorough search, go and see how our people are suffering and if there is money, tell the supplementary budget, so that all those dams could be done and then we can get water. This is my prayer to this Committee. Thank you, Mr. Temporary Speaker.

Hon. Osuri: Thank you, Mr. Temporary Speaker, for giving me this chance. I am on my feet to commend the Committee on Water that has come up with this report. However, I want to say that in the report, it has been given that the Department of Water has come up with a standard BQ for rehabilitation of the Wells.

I would wish that for various pumps, the technical department looks into the quality of the pumps that are being used by the contractors. If it is left open like that, they can be installing sub-standards pumps. The quality of the pumps that are being used should be looked into. We have been told by the Committee Members that soon we are having piped water along the lines. I would wish that a visibility study be done

to see into it if we can use along those lines distribute the water using piped to various homes because it is the intention that these waters should reach the households and that is the vision of this County. We should use pipes to take water to the nearest homes, schools and other educational institutions.

A great percentage of women walk for long distance as observed by other Members, that the technical department if they have shortage of staff, they should capacity build these people so that minor repairs can be done by the locals and this will cut down the cost. Otherwise Mr. Temporary Speaker, I support the report.

The Temporary Deputy Speaker
(Hon. Abayo): Yes, Hon. Apiyo!

Hon. Apiyo: Thank you, Mr. Temporary Speaker. Before maybe we request the mover of the Motion to reply, I have some two issues, one has been mentioned by Hon. Osuri, about the pumps, how they were being installed. The other one is about time taken searching for water and it is the women who suffer most and we need to do more about this.

I don't want to take much time, my concern is, we are discussing a very important issue and the Chair of Implementation Committee is not around. Who is going to take over this thing to be implemented? I would request that in future, we don't give Hon. Oriaro a chance to speak first. It is a common disease with him to be the first to rise, contribute then he walks away. Who is going to implement? Thank you, Mr. Temporary Speaker.

The Temporary Deputy Speaker
(Hon. Abayo): Hon. Apiyo, be informed that Implementation is done by Committee but not an individual. By the Standing

Orders, Implementation Committee stands obligated to make sure that all that is proposed in this House is implemented. Hon. Oriaro has not just left this Chamber, he has excused himself, because with the Lands team they are going to Kisumu and the vehicle was waiting. So, he is out from this Chamber with permission. Yes, Hon. Mary C.

Hon. Ajwang: Thank you, Mr. Temporary Speaker, Sir. May I take this opportunity to thank the Committee on Water for the good work they have done. I have only one issue, concerning the key findings in bullet one. The Rarieda Uyore Shallow Well only functioned for three months after its completion in December 2015. I have read this report and I have tried to check with their findings and recommendations and this Uyore is not featuring anywhere, only the Uyugu. Thank you.

The Temporary Deputy Speaker
(Hon. Abayo): Thank you. I think a number of things have been raised by the Hon. Chair and some have been raised by the Committee Members. There being no other input, Hon. Members, allow me to put the question that this House adopts the report of the Committee on Water, Environment and Natural Resources on the Implementation Status of the projects in the FY.

The mover would want to reply. Hon. Elisha I get why the Members are wondering, you would have shoot up first enough. While I was looking at Liza's face he was not ready. Hon. Elisha reply!

Hon. Okuku: I was just wondering the shortcut the chair is taking!

(Laughter.)

Hon. Okuku: Thank you Mr. Temporary Speaker, Sir, I want to by first appreciating Members, all those who have talked positively and for the observation that we are supposed to add to the report as a Committee. I want also to appreciate the effort the Committee made going out to the field and making the report.

I want to say that sustainability is the biggest challenge as far as water as a commodity is concerned. If you hear people talking everywhere it's all about sustainability, we have infrastructure almost everywhere and if you dig the land you find pipes. The pipes have been there for decades but sustainability has stand out as the major problem that this Committee must find a way to look into properly.

I want to agree that the community should be trained, more so the women folk who are the most affected. Anytime we talk about water, going to inspect the shallow wells, going to Wards and observe the dams. If you have 5 people affected, then 3 of them must be women. We would wish to urge the department of water in Executive to work closely with women so as to enhance the consumer services to this Community.

Allow me to say that the crisis in Bondo and Siaya is soon going be sorted out and most likely by this month. The main issue is not even the Sibo Water Company; the issue has been electricity shortages and also the wearing and tearing of the machines.

Some of the machines are even older than some of us in this Hon. House, therefor they consume a lot of power and the services offered is very low compared to the consumption rate. Given that Sibo is a public private company their prices of selling water to the community is being controlled and regulated by an authority.

They can't sell water for sustainability and they can't even stand on their own. Before the creation of County Governments the National Government was subsidizing for Sibo in terms of electricity bill and chemicals. The County Government has tried to pay the electricity bill up to date and SIBO has missed the chemical cost on their own given that they have not even paid their staff for three months.

All the above mentioned issues are going to be sorted out because of the new project started by China and funded by the World Bank. For now it is being tested and by the end of the month of October we will be having plenty of water in both Siaya and Bondo. Am also privileged that we made an initiative as a Committee and took Member Hon. Joseph Agoko who is the chairman of Agriculture, Hon. Samuel Olasi, CEC, Jack Oburu and the technical team Eng. Odede from SIBO.

We visited Hon. Eugene Wamalwa on 20th last month at his office in Nairobi and we talked lengthy and agreed that this weekend on 15th he is coming to ensure the issues concerning the water is finalized and all the loose ends are tided so that people of Siaya can enjoy this commodity. On 15th of this month the water is going to be launched at Mama Sarah Obama's home because the people of Kogello also do not have water.

Hon. Osuri should appreciate that we were not greed and decided to launch the water in his Ward even though we also have Wards that we could have considered. Before the end of this month, around 20th the president of the Republic of Kenya Hon. Uhuru Mwigai Kenyatta will come to commission this water in Siaya. I think that the issue of water in both Siaya and Bond will end as we work

2016 SIAYA COUNTY ASSEMBLY DEBATES

tirelessly to ensure that water is supplied to the people.

On this week, Monday we went to meet the CEO of Lake victoria South which is a Parastatal and we agreed on a number of items:

That this water project was targeting people from the urban centers which is Siaya and Bondo, but we also have people in the rural areas which are places like Ukwala, Yala, Maseno, Rangala, Rarieda, West & East Asembo, Yimbo, Alego and Gem which was not even anywhere in the plan.

We agreed and made a BQ that if we have a Kshs. 500,000 then this other places can have an extension of the lines for example the Uranga – Sidindi water project which stalled can be rehabilitated.

There was also an agreement with the CEO of L. Victoria South Madam Philgona Apiyo that the key wash has that money.....

The Temporary Deputy Speaker
(Hon. Abayo): Hon. Elisha, we appreciate that water is key for life, but could you reply so that we wait for the report because I think Hon. Agoko said that you would be bringing a Report. We want to appreciate your effort as a team and that addresses a number of issues a lot of us digressed on and we are now rest assured that something is being done.

Hon. Okuku: Thank you, Mr. Temporary Speaker, Sir, as I conclude the Members challenged that the uniformity in the BQ that every Bore hole that was to be repaired was allocated Kshs. 200,000. I want to say that this money as we stand, we know that the budget line starts with the public participation, it goes round and the MCAs sign up to it, then the House approves. Therefore this was approved in this House that the cost of repair to be at

Kshs 200,000 and not prepared by anybody sitting in an office

Allow me to rest my case by thanking everybody for taking their time to be in this morning session and for also supporting the report, thank you.

The Temporary Deputy Speaker
(Hon. Abayo): Thank you Hon. Elisha for the reply.

(Question put and agreed to.)

(Applause)

Adjournment

The Temporary Deputy Speaker
(Hon. Abayo): Hon. Members we have exhausted the business of the day will we be upstanding for adjournment. This House stands adjourned until this afternoon at 2.30 p.m. in the Chambers.

The House rose at 10.25.a.m

WEDNESDAY, 12TH OCTOBER, 2016

The House met at the County Assembly Chambers, at 2.30.p.m.

[Hon. Temporary Speaker (Hon. Abayo) in the Chair]

PRAYER**Hon. Temporary Speaker**

(Abayo): Hon. Members, we do not have quorum so I would request the Sergeant-at-arms to ring the bell for some 10 minutes.

COMMUNICATION FROM THE CHAIR**Hon. Temporary Speaker**

(Abayo): Hon. Members I have a communication addressed to Members of County Assembly from the desk of principal Assistant Clerk on behalf of the Clerk. The subject of the notice is on public participation and preparation of 2017/2018 budget. We are aware that there is a review of the calendar for processing the budget arising from the fact that elections are coming soon and that it is expected that by 31st, March a new budget 2017/2018 shall have been passed.

The communication refers to section 125 sub- section 2 of the public finance management act 2012 requires that the County Executive member in charge of finance to ensure that there is public participation in the budget preparation process. The purpose of this letter is to inform you that the County treasury will carry out the above exercise from 17th October, to 3rd November, 2016. Hon. Member's attached is a schedule of how they want to move to all the sub counties, all the Wards, the dates and the venues are given.

I am reliably informed that you are going to get a copy of this letter and I want to direct that you look the venues that have been proposed, the dates and times have been set that the team from treasury will visit to seek the opinion of the our Members. This is done with a view that you will be able to support that mobilization process for members to attend this very important exercise. Otherwise you are all aware that this is our last budget and it's an opportunity to fill in all the gaps that may have been there.

This exercise starts from 17th and it starts with Ugenya Sub County, Rarieda, Ugunja, Bondo, Alego Usonga and lastly Gem. So if you get that copy lets have this information passed to the citizens of Siaya County. Thank you, next Order!

MOTION

REPORT OF THE COMMITTEE ON WATER, ENVIRONMENT AND NATURAL RESOURCES ON STATUS OF TREE PLANTING PROJECTS TENABLE IN THE FY2013/2014, 2014/2015 AND 2015/2016

Hon. Agoko: Thank you, Mr. Temporary Speaker, Sir; on behalf of the Chair who delegated the duty to me, I want to table this report to the House and I would wish to lay the following Motion:-

THAT, this House adopts the Report of the Committee on Water Environment and Natural Resources On Status Of Tree Planting Projects Tenable In The FY2013/2014, 2014/2015 and 2015/2016 laid

on the Table of the House on Tuesday, 11th October, 2016.

Mr. Temporary Speaker Sir, there has been enormous and genuine concern about the forest status in this County. This concern has been multi-sectoral and is being championed by the department of Environment, Water and Natural Resources, which has made a commitment to 'increase forest and tree cover from the current 2% to 30% by 2017' as stated in the preliminary sections of the 2015/2016 budget document.

Mr. Temporary Speaker Sir, while the department puts a current forest cover as 2%, a report released by Kenya Water Towers Agency (KWTa) in 2015 ranks Siaya County as the county having least forest cover in the whole country with 0.42% forest cover. Siaya is closely followed by Kisumu County at 0.44%. Nyeri County leads countrywide with a forest cover of 38.03%.

Mr. Temporary Speaker Sir, this Assembly in its wisdom and foresight to address the looming environmental disaster, has over the last three financial years approved an accumulative sum of Kshs 33,500,000 to be used for afforestation activities in nearly all the 30 wards in this county.

It should not also escape our memory that in 2014/2015 financial year there was a re-allocation of Kshs 7,500,000 from Department of Education, Youth, Culture and Social Services to the Department of Water Environment and Natural Resources specifically for tree planting activities in the county. This brings the total allocation for tree planting activities to Kshs 41 million.

This is a colossal amount that must surely have immediate positive impact on our forest cover. However, anyone making

a rough comparative survey in many parts of this county would barely see any change, save for, scattered individual efforts to plant trees in their plots. What is worrying is that there is a department in this county staffed with officers who have an obligation to ensure that trees are planted and maintained to maturity. What we see on the converse is an increase in deforestation activities by the methods of burning charcoal and bricks, and very feeble interventions from those charged with due duty to make things work.

It is on this basis, that one of our distinguished legislators sought a statement from the chair of the committee of environment water and natural resources on the status of tree planting and afforestation activities over the last three financial years in this county. Specifically Hon. Walter Okello sought the following;

1. That an accurate audit of the status of tree planting activities in the county in the 2013/2014 financial year be availed to this house.
2. To know the status of implementation of tree planting activities against budgetary allocations per ward in the 2014/2015 financial year
3. To know on-going activities in this financial year with respect to tree planting, vis-a vi the funds that have been allocated in the budget

Mr. Temporary Speaker Sir, this committee took time and expended available resources to investigate and come up with real issues surrounding afforestation activities as sought in the floor of this house.

This report is the output of all the strategies employed by the committee in its attempt to bring into view afforestation activities in Siaya County and the manner

2016 SIAYA COUNTY ASSEMBLY DEBATES

in which valuable public resources are being used by officers in charge of taking care of our environment.

1.2 ACKNOWLEDGEMENT

Mr. Temporary Speaker Sir, the committee appreciates and commends the support and facilitation of the office of the Speaker and the office of the Clerk of County Assembly of Siaya for the support extended to the committee in execution of its mandate.

Our appreciation further goes to members of this committee for their persistence and dedicated participation in the investigations, analysis and production of this report.

We appreciate also, the committee secretariat for their professional input and support rendered to the committee from the point the statement was committed to this committee up to the point of production of this report.

2. COMMITTEE MANDATE

Mr. Temporary Speaker, Sir, The sectoral committee on Water, Environment and Natural Resources is constituted under the Standing Order 200 (1) of the assembly standing Orders and is mandated to, all matters related to Water, Sanitation and Irrigation Services has the honor and privilege to present the report on the statement by Hon.Walter Okello on status of tree planting project in the FY 2013/2014, 2014/2015 and 2015/2016.

2.1 COMMITTEE MEMBERSHIP

The following are the members of the committee.

Hon.	Elisha	Okuku
Chairman		

Hon.	Peter	Ombee
Vice chairman		

Hon.	Hilda	Otieno
Member		

Hon	.Jane	Pamela	Ngure
Member			

Hon.	Samuel	Olas
Member		

Hon.	Pamela	Midumbi
Member		

Hon	.James	Munda
Member		

Hon. Nicholas Were	
Member	

Hon.	Teresa	Osore
Member		

Hon.	Christopher	Apiyo
Member		

Hon.	Joseph	Agoko
Member		

4. STRATEGY ADOPTED

Mr. Temporary Speaker Sir, the committee adopted a multi-pronged approach that included face to face interviews with the Chief Executive Committee member, Chief Officer and Directors in the department of Water, Environment and Natural Resources. We also did documentary reviews from the department on the tree planting and financial allocation. The climax of our investigation were the field visits to various wards which had a noble aim of corroborating information from face to face interviews and evidence presented by the department in various documents.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Because resources were a limiting factor, the committee visited a representative sample of wards in all sub-counties. This statistical approach is a valid methodology and findings from the representative wards showed a pattern of operations that can be confidently used to explain the happenings in all the wards in this county.

The committee engaged the CEC Member and her technical team to a committee meeting held on 19th November 2015 at 10.00am and subsequently on 3rd march 2016 at 10.00am to give her submissions in this matter. The secretariat further engaged the directors in the department on various dates to seek more information on budgeted activities.

The committee conducted visits to the following wards on the dates shown alongside;

- West Gem ward
7th
September 2016
- Yala Township
7th
September 2016
- Sidindi Ward
8th
September 2016
- East Asembo Ward
8th
September 2016

- West Uyoma Ward
8th
September 2016
- Central Gem, East Ugenya and North Ugenya
14th
September 2016
- East Yimbo and North Alego Wards
15th
September 2016

Phone call interviews was done to the following wards

East Gem, West Sakwa, North Sakwa, and Ugunja.

4. COMMITTEE FINDINGS

4.1 YALA TOWNSHIP WARD

2013/2014 FY ALLOCATIONS

Total budgetary allocation for planting and growing of trees was Kshs. 500,000. Five groups were awarded tenders to carry out related activities where each group confirmed receiving Ksh 100,000 each. One group namely Uzima Self Help Group was given the tender to supply seedlings to the other four groups. These four groups confirmed receiving the said seedlings.

The following table shows the summary of allocations for the 2013/2014 financial year for this ward.

	GROUPS	ALLOCATION	AMOUNTS GIVEN TO GROUPS			
YALA TOWNSHIP			IMPLEMENTS	SEEDS	LABOUR	TOTAL
	Uzima	100,000			100,000	100,000
	Yala Highway	100,000	-	-	100,000	100,000
	Ulumbi Central	100,000	-	-	100,000	100,000
	Anyiko Integrated	100,000	-	-	100,000	100,000

2016 SIAYA COUNTY ASSEMBLY DEBATES

	Lok Pachi	100,000	-	-	100,000	100,000
TOTALS		500,000	-	-	500,000	500,000

The seedlings were planted in school compounds, hospitals, and some given to be planted in individual plots. The distribution of the seedlings and subsequent planting was coordinated by the ward administrator.

The committee sampled and visited one of the sites where the trees were planted, in particular, Anyiko Primary School. It was noted that the trees were actually planted in February 2014. This was confirmed by the head teacher of the school.

These trees were planted by Anyiko Integrated group. They maintained the seedlings for planting,

YALA TOWNSHIP WARD		
	GROUP	ALLOCATION
	Teeniz	250,000
	Muongano	250,000
	Umoja	250,000
	Kotala	250,000
TOTAL		1,000,000

The groups were awarded tenders in May 2015 and started working towards the respective targets which was production of 10,000 seedlings. They used members' contributions and savings to fund the operations of these projects and have lamented that they have gotten into debts which are challenging to service.

As implied, they have not received any funding from the Siaya County Government towards the projects. Some of the groups have mature seedlings which they sell to the locals. The committee visited one of the sites managed

The trees were well grown and well taken care of through the effort of the school administration.

The supplier of the seedlings (Uzima Self Help Group) was centrally located in an easily accessed area within Yala town and has a well tendered farm for seedlings.

2014/2015 FY ALLOCATIONS

Yala Township ward was allocated Ksh 1 Million for tree nursery development in the FY 2014/2015. The following groups were equally given the amounts shown alongside.

by Kotala Group. In this site, there were seedlings in various stages of development; however, there were clear indication of challenges facing the project. For instance, some of the seedlings were under attack by pest yet the environment department promised to provide pesticides which they failed to deliver at the onset of production. Besides no funds being given to the groups, there has been no supervision services offered. Most of the groups were disenchanted and loudly regret dealing with the county government.

4.2 SIDINDI WARD

2016 SIAYA COUNTY ASSEMBLY DEBATES

2013/2014 FY ALLOCATIONS

Budgetary allocation was
Kshs 3,000,000 for production of 300,000

seedlings by 15 registered groups. The
allocation per item was as shown in the
table below;

WARD	GROUP	ALLOCATION	IMPLEMENTS	SEEDS	LABOUR	TOTAL
SIDINDI	UHUYI CBD	200,000	87,460	1,500	97,540	200,000
	LOS EKA ICHAM	200,000	87,460	1,500	97,540	200,000
	UGOLWE WINJRUOK	200,000	87,460	1,500	97,540	200,000
	LUANDA DEV Y.G	200,000	87,460	1,500	97,540	200,000
	RAMBO VILLAGE	200,000	87,460	1,500	97,540	200,000
	MUHOLA TING WANGI	200,000	87,460	1,500	97,540	200,000
	JACHAN JAKINDA	200,000	87,460	1,500	97,540	200,000
	TANGNE GIMA BIRO	200,000	87,460	1,500	97,540	200,000
	RANGALA TOP RANK	200,000	87,460	1,500	97,540	200,000
	SIGULU VILLAGE	200,000	87,460	1,500	97,540	200,000
	RALAK SHG	200,000	87,460	1,500	97,540	200,000
	UREHO Y G	200,000	87,460	1,500	97,540	200,000
	UMOJA WOMEN	200,000	87,460	1,500	97,540	200,000
	SIDINDI SINGRUOK	200,000	87,460	1,500	97,540	200,000
	RANGALA UJAMAA	200,000	87,460	1,500	97,540	200,000
TOTALS		3,000,000	1,311,900	22,500	1,463,100	3,000,000

The Committee sampled 9 groups with a view to confirm the report given by the executive against the standards that were expected from the implementation of the budget lines.

The total implements cost according to the schedule provided was totaling to (Kshs 86 320 x 15 = Ksh 1,294,800). This resulted into a variance of Kshs 17,100.

The groups were scheduled to receive implements and materials as per the contract amount. However, only a few of the budgeted implements were given. Further analysis shows that the value of the implements that were not given totaled to Kshs 495,782. This amount is not accounted for.

On receipt of the amount meant for labour, each group received a call to surrender amounts indicated in the table for supervision purposes. The total

2016 SIAYA COUNTY ASSEMBLY DEBATES

amount that was given back in this respect was Ksh 55,800. The committee was informed that these monies were channeled to the office of the Director (one Mr. Gabriel Oduon'go) of Environment and Natural Resources at the County Headquarters. While some groups sent their officials to surrender the cash in the environment office in Siaya, others were directed to hand over the money to the area MCA's ward manager who would later send the amount collected to the said office.

It is important to note that all the groups confessed that no supervision was done by anybody from the office of Environment and Natural Resources. However, the ward administrator did his due duties and did the supervision as part of his normal job

demands. More so, no receipts, nor acknowledgements, nor any documentation were given to the officials surrendering the said cash.

One group became adamant and inquisitive and was given back the money they had surrendered. They were however told not to expect any further assistance or consideration from the county government as a result of their action. It was clear therefore that most groups complied because of fear of losing out in subsequent awards.

2014/2015FY ALLOCATIONS

In the 2014/2015 FY, Sidindi ward was allocated Kshs 3 Million for development of 300,000 tree seedlings.

Details of allocation and progress are given in the table below;

SIDINDI	GROUP	ALLOCATION	STATUS AS AT MAY 2016
	Ujamaa	200,000	Potting
	Mos Mos	200,000	Potting Seedlings
	Ralak	200,000	Seed Bed Preparation
	Yombra	200,000	3000 Seedlings Ready
	Cham Kidiyo	200,000	Transplanting
	Uwasi	200,000	No Progress
	Onyalo Biro	200,000	Seedlings Ready
	Rambo	200,000	Nursery Established
	Yiro West	200,000	Nursery Established
	Mugombra	200,000	1300 Seedlings Ready
	Ruwe	200,000	Site Identified
	Oluma Dede	200,000	Seed Bed Preparation
	Uhuyi	200,000	Ready for transplanting
	Tem Kadinyal	200,000	Ready for potting
	Emulole	200,000	Ready for potting
TOTAL	15	3,000,000	

The committee found out that despite the efforts made by groups to fulfill the requirements of the contracts,

2016 SIAYA COUNTY ASSEMBLY DEBATES

they had not received any funds from the county government at the time the committee visited them i.e. on 8th October 2016.

Each group had an average target of developing 20,000 seedlings. Most groups had achieved this target with the little resources that they could mobilize. Such groups had distributed the seedlings to schools, hospitals and individuals for planting. Others had stock which was feared could overgrow if not channeled to the planting sites.

4.3 EAST ASEMBO WARD

2013/2014 FY ALLOCATIONS

County Government funded five groups in the FY 2013/2014 in E. Asembo with each receiving Ksh 197,000 for development of seedlings as presented in the table below:

EAST ASEMBO	GROUPS	ALLOCATION	AMOUNTS GIVEN TO GROUPS			TOTAL
			IMPLEMENTS	SEEDS	LABOUR	
	New Partnership	200,000	84,460	15,000	97,540	197,000
	Ang'aya Village	200,000	84,460	15,000	97,540	197,000
	North Ramba Agro	200,000	84,460	15,000	97,540	197,000
	Kayao Y G	200,000	84,460	15,000	97,540	197,000
	Asembo Comm	200,000	84,460	15,000	97,540	197,000
TOTALS		1,000,000	422,300	75,000	487,700	985,000

All the groups received a down payment of Kshs. 97,000. The groups did not deliver on their targeted seedling production. These groups also paid back a varying sum of money to the department of environment for the alleged supervisory services. For instance New Partnership Group paid 6,900ksh while Asembo Community Hope and Care Group paid Kshs 1,500 and Kayao Youth Group paid Kshs 7,000 for supervisory services. These groups did not receive all the farm implements specified in the BQ.

The committee visited Kayao Youth Group and noted on-going activities in a tree nursery that appeared not very well tended. The group indicated that they received some of the implements though they did not have supporting

documents as a proof of what was not given and those that were given.

There was evidently lack of expert supervision even though the group members appeared enthusiastic about their activities. They indicated that they had given the seedlings to the community and surrounding schools for planting, however there were no evidence of these assertions.

2014/2015 FY ALLOCATIONS

East Asembo was allocated Ksh 1 million in 2014/2015 FY for establishment of 5 tree nurseries in every sub location i.e. North Ramba, South Ramba, Omia Malo, Omia Diere & Omia Mwalo. Each group was allocated Kshs 200,000. The progress as at July 2016 is summarized in the table below;

2016 SIAYA COUNTY ASSEMBLY DEBATES

EAST ASEMBO			
	GROUP	ALLOCATION	PROGRESS
	Katombo	200,000	Potting
	Awilo	200,000	No Progress
	Luoro YDG	200,000	Planting
	Omia Diere	200,000	Holes Dug
	Lingni Kimiyi	200,000	Trees Ready
TOTAL	5	1,000,000	

This is one of the few wards that had received their allocation for 2014/2015 financial year. The ward administrator informed the members that it was due to his initiative that the groups were given funds as opposed to other wards in the county.

One representative group, Omia Diere, which was a beneficiary of the wards, was given a target of planting 5,000 seedlings. By 8th September 2016, when the committee did a site visit to the group's area of operation, the claimed they had planted 1,200 seedlings at Kandhere Primary School. They bought seeds from various sources as per the contract and were to plant in institutions and other targeted areas in the ward.

The committee had a look at some of the trees that had been planted at Kandhere Primary School and observed that most of them were stunted and not well taken care of. Chances of their continued survival were minimal. The picture below captures the situation as was observed.

The number of seedlings planted could not be more than 200, on estimation even though the claim that 1,200 had been planted.

Evidence that the remaining 3,800 were in the process of being planted was not there.

The group officials confirmed with valid documents that they returned Ksh 13,200 for 'supervision'. No supervision was done just as in the other wards. This implies that from this ward, a total of Ksh 66,000 was returned to the department for supervision purposes.

4.4 CENTRAL GEM WARD

2013/2014 FY ALLOCATIONS

Central Gem Ward was allocated Kshs 1 Million in the FY 2013/2014 for purchase of trees and seedlings. The total number of registered groups was ten meaning each group was meant to receive Kshs 100,000 besides the implements for supporting the projects.

The Ksh 100,000 was meant to be distributed as shown in the table below;

2016 SIAYA COUNTY ASSEMBLY DEBATES

		ALLOCATION	IMPLEMENTS	SEEDS	LABOUR	TOTAL
CENTRAL GEM	KOMOLO Y G	100,000	45,560	15,000	39,440	100,000
	SIRIWO COMM Y G	100,000	45,560	15,000	39,440	100,000
	OKEYA	100,000	45,560	15,000	39,440	100,000
	RIVER MALA W G	100,000	45,560	15,000	39,440	100,000
	UYONGA	100,000	45,560	15,000	39,440	100,000
	RAWALO ADVENTIST	100,000	45,560	15,000	39,440	100,000
	NYANGWESO	100,000	45,560	15,000	39,440	100,000
	KAGILO W G	100,000	45,560	15,000	39,440	100,000
	GONGO	100,000	45,560	15,000	39,440	100,000
	NYI ANYIKO	100,000	87,460	15,000	39,440	100,000
TOTALS		1,000,000	497,500	150,000	394,400	1,000,000

The vote heads as shown in the distribution table implies that the groups were expected to develop tree nurseries and end up with seedlings. This was to take the same format as that of Sidindi Ward amongst others.

The committee found out that each group actually received Kshs 39,440 as per the schedule; however, they were instructed to surrender Kshs 1,440 for ‘supervision’. This amount was to be given to Mr Isaiah Obiero, the chairman of River Mala Group. Mr Obiero confirmed receiving the monies and channeling a total of Kshs 14,400 to the Environment department in Siaya.

Analysis of the figures reveals that the total budgeted amount for implements and seeds was Kshs 647,500. However from the data collected from the group members, the amount expended totaled to an approximation of Kshs 331,500. The variance therefore amounts to Kshs 316,000. This is the amount that can be unaccounted for in this ward with respect to allocation for the project.

The seedlings produced were to be planted in schools and other

facilities/institutions in the ward. The committee visited a few sites where the trees were planted by Komolo, River Mala and Siriwo Groups. The planted trees were in a bad state with most of them withered. Without proper care, a very big percentage of those trees will not grow to reasonable maturity implying a project that can be rated as failed.

Members of the groups mentioned that they were given poor quality seeds that could not germinate. They resorted to planting their own seeds. There was no supervision from the parent department and hence no proper certification of the total number of seedlings produced. The groups were therefore left to do as per their own individual plan which was a recipe for

failure.

4.5 EAST UGENYA WARD

2013/2014FY ALLOCATIONS

This ward was given Kshs 1,500,000 for establishment of tree nurseries and environmental clubs in schools. The beneficiaries were five groups each receiving Ksh 250,000 distributed as shown in the table below:

***Disclaimer:** The electronic version of the official Hansard Report is for information purposes only. A Certified copy of this Hansard report can be obtained from the Hansard Editor.*

Siriwo primary school (this is one of the schools that benefited from tree planting project in central Gem)

2016 SIAYA COUNTY ASSEMBLY DEBATES

	GROUPS	ALLOCATION	AMOUNTS GIVEN TO GROUPS			
EAST UGENYA			IMPLEMENTS	SEEDS	LABOUR	TOTAL
	Ramunde Kinda	250,000	94,820	30,000	125,180	250,000
	Bimos W G	250,000	94,820	30,000	125,180	250,000
	Mangira S H G	250,000	94,820	30,000	125,180	250,000
	Masiro Dairy	250,000	94,820	30,000	125,180	250,000
	Osiepe Y G	250,000	94,820	30,000	125,180	250,000
	Konyruok W G	250,000	94,820	30,000	125,180	250,000
TOTALS		1,500,000	568,920	180,000	751,080	1,500,000

The committee could not trace any of these groups through the Ward Administrators office. The sitting ward administrator claimed that he joined the office when this project had been implemented and could not trace any documents related to any of the groups.

The fact that there were no documentation and that none of the groups were willing to come out and give details about this projects reflects attempts to hide facts from an institution mandated by the constitution to audit public expenditures.

Officers from the department were equally not willing to give contact details of the beneficiary groups.

4.6 NORTH UGENYA

2013/2014 FY ALLOCATIONS

In this ward, there was a total budget allocation of Kshs 500,000 for tree planting in Nyamseda sub location. There were four groups with each expected to buy seeds and plant in schools and other public facilities. The table below shows the details of the allocations;

	GROUPS	ALLOCATION	AMOUNTS GIVEN TO GROUPS			
NORTH UGENYA			IMPLEMENTS	SEEDS	LABOUR	TOTAL
	Sihayi Alleluhya	57,257	0	0	57,257	57,257
	Kopata Kwaro	57,257	0	0	57,257	57,257
	Together W A O Y	57,257	0	0	57,257	57,257
	Obol Village	57,257	0	0	57,257	57,257
TOTALS		229,028	-	-	229,028	229,028

While the table above gives details of the allocation as per the records of the department of Environment, Water and Natural Resources, committee findings on the ground revealed that the groups were given Kshs 100,000 each. They were tasked to buy seedlings and plant in designated places.

The committee observed that only a small percentage of the planted trees survived. The health of the few that survived was wanting. There were no indications that the planted trees were well taken care of. As was the case in other Wards, the project was not supervised by the financing department. The group

2016 SIAYA COUNTY ASSEMBLY DEBATES

members cited lack of rains as the main reason behind the poor health of the trees.

4.7 NORTH ALEGO WARD

2013/2014 FY ALLOCATIONS

North Alego ward was allocated Kshs 1,000,000 in the FY 2013/2014 for establishment of tree nurseries at Bar Mayoya, Gombe Centre and Ulalo River. This amounts to an allocation of Kshs 250,000 per group.

Ulalo Group reported being given Kshs 119,000. Out of this they returned Kshs 7,000 for the supervision. They had a target of producing 20,000 seedlings which they claimed to have surpassed by the time committee visited their site.

Gombe Sifa stated that they received 125,000 cash and returned Kshs 7,000. This group only had 2000 seedlings against a target of 20,000. These seedlings are with the groups.

2014/2015 FY ALLOCATIONS

This Ward was allocated Kshs 1 Million in the FY 2014/2015 for establishment of tree nurseries at Nyamila, Ulafu, Umala and Nyalgunja. The

beneficiary groups were four namely, Umala Boda Boda, Opo, Nandi, and Koyogo which were allocated Ksh 250,000 each.

One of the groups sampled (Umala Boda Boda) stated that they had not received the allocation despite the fact that they had prepared 9000 seedlings which they were hesitant to distribute unless the funds allocated to them were availed.

Opo Self Help Group stated that they have 5000 seedlings ready for distribution. They had opted to sell their seedlings to the surrounding community.

There are three other groups that appeared during the committee investigations and are not on the list of tree development tender awardees list from the department. These groups were Madiere Group, Kayugu Women Group and Uyugu Youth Group. Uyugu Youth Group claimed they have 10,000 seedlings ready for distributions once the funds were availed.

4.8 WEST GEM WARD

2013/2014 FY ALLOCATIONS

This ward was allocated Kshs 1m for establishment of tree nurseries.

WEST GEM WARD		
	GROUP	ALLOCATION
	Kanyamanga	200,000
	Gemsy	200,000
	Thomo	200,000
	Wandulu	200,000
	Kowuo	200,000
TOTAL		1,000,000

2014/2015 FY ALLOCATIONS

Most of these groups did not receive the farm implements specified in the BQ

West Gem Ward was allocated a total of Kshs 1 Million in the FY 2014/2015 for

2016 SIAYA COUNTY ASSEMBLY DEBATES

establishment of 10 tree nurseries. This amount was distributed amongst groups as

indicated in the table.

WEST WARD	GEM		
		GROUP	ALLOCATION
		Jomofuwo	250,000
		Urii	250,000
		Malunga	250,000
		Umoja	250,000
TOTAL			1,000,000

VOTE HEADS	
Equipment	10,320
Water Supply gadgets	43,000
Supplies for production	50,000
Labor	126,000
Project administration	20,680
Total	250,000

The groups were given award letters dated 29/5/2015 indicating the purpose as ‘proposed establishment of tree nursery’ in respective sub locations, with the award sum being as indicated in the table. The vote heads were allocated as shown above.

By the time the committee visited the ward none of the groups had received any funds or equipment from the department. However, most of the groups had gone ahead and established the tree nurseries in anticipation that they shall be facilitated in due course. This had not happened by the time this report was being drafted. They had been instructed to initiate the projects with their own resources by officers from the department. The committee was further informed that most groups had ready seedlings and had resorted to selling them out in a desperate attempt to recover some of the costs they had incurred.

4.9 WEST UYOMA WARD

2014/2015 FY ALLOCATIONS

West Uyoma ward had two groups (Kibagaa Green World and Cham Luchi Women Group) which were awarded Ksh 500,000 each for

purchasing and planting of tree seedlings. Kibaga confirmed receiving the said amount and giving back Kshs 20,000 for supervision.

Kibagaa group was given a target of 3,900 trees which was comparatively low given that groups in East Asembo had a target of 5,000 trees on an award of Kshs 200,000.

The trees were planted in Komolo Primary School which was visited by the committee. It was observed that the total number of trees planted and surviving were barely 200. Group officials claimed that the correct number planted was (3,900) but most seedlings withered away due to harsh weather conditions. This brings into question the commitment of the group as far as the success of afforestation in the area is concerned.

The group claimed that they did not receive support from the school with respect to taking care of the trees. However, it should be noted that the group had the direct responsibility and adequate facilitation to tend the seedlings.

Chamluchi women group which also received Kshs 500,000 claimed to have planted 7,980

2016 SIAYA COUNTY ASSEMBLY DEBATES

seedlings in Ogango, Nyabera, Tanga, Rachar, Tuju and Pala Kobong primary schools. The committee visited Ogango primary school to confirm the statements given by the group officials.

It was observed that the trees planted were in dismal state and were clearly withered. There were many holes that appeared to have contained seedlings which had been trampled on by pupils and animals that graze in the school compound. There were visibly meager efforts and motivation from the group to work towards the success of the project. This is despite the fact that the group was one of the few that got huge allocation and had been paid compared

other groups in other wards that were not paid but did some commendable work.

This group confirmed returning Kshs 35,000 for supervision. They also returned Kshs 70,000 and 50,000 for some purpose which could not be immediately authenticated. Each group returned Kshs 9,000 to the department of environment for supervision purposes.

4.10 YIMBO EAST

2013/2014 ALLOCATIONS

The budgetary allocation was Kshs 1M for establishment of tree nurseries. The following groups received tender for establishment of tree nurseries in Yimbo East:

YIMBO EAST WARD		
	GROUP	ALLOCATION
	Kasunga	250,000
	Ogwedhi jirani	250,000
	Linda Njaa	250,000
	Tii gi wiyi	250,000
TOTAL		1,000,000

4.11 SIAYA TOWNSHIP

2014/2015 FYALLOCATIONS

Siaya Township was allocated Kshs 500,000 for establishment of tree nurseries at Mulaha, Karapul, and Nyandiwa sub locations. The awards were given to Madede and Mulaha groups with each to receive Kshs 250,000.

Both groups stated that they had not received any payment from the department. Madede claimed that they had supplied some seedlings to the department, but could not confirm the number. This was in contrast to the reports from the

These groups received a sum of Kshs 125,000; however, the groups did not receive most items specified in the BQ.

2014/2015 FY ALLOCATIONS

Budgetary allocation for tree planting in this ward in FY 2014/2015 was Kshs 200,000 which was awarded to Rit Wadu Group only. This group had not been given these funds; however they used their resources to plant trees and distributed 5000 seedlings to Nyamonye Primary School.

2016 SIAYA COUNTY ASSEMBLY DEBATES

department which indicated that there was no progress noted from the two groups.

4.12 NORTH SAKWA WARD

2014/2015 ALLOCATIONS

The ward was allocated Kshs 200,000 for tree planting at Ochot catchment. The

award was given to Nyandera Group which did not initiate any activity because of lack of funds.

5. ALLOCATIONS FOR 2015/2016 FINANCIAL YEAR

The summary of budgetary allocation and ward details are given in the table below:

N O	WARD	ALLOCATION	NO OF GROUPS	AWARD PER GROUP
1	EAST UGENYA	1,000,000	5	200,000
2	SOUTH EAST ALEGO	500,000	2	250,000
3	EAST YIMBO	1,000,000	5	200,000
4	SOUTH GEM	500,000	2	250,000
5	EAST ASEMBO	1,400,000	7	200,000
6	CENTRAL SAKWA	1,400,000	7	200,000
7	SIDINDI	1,000,000	5	200,000
8	UGUNJA	1,200,000	6	200,000
9	WEST ALEGO	1,000,000	5	200,000
10	WEST GEM	1,000,000	5	200,000
11	SIAYA TOWNSHIP	500,000	1	500,000
	TOTAL			2,600,000

All these groups have only received award letters which are dated 6th May 2016. None of the groups have received any funds and are reluctant to initiate any activity given the experience of the 2014/2015 groups. However all the groups in Yimbo East have completed tree nursery establishment and are waiting for the officers from the environment department to certify their activities and pay them their dues.

6. SUMMARY OF COMMITTEE OBSERVATION

1. Total Budgetary allocation for tree planting and afforestation activities in the County for 2013/2014 FY was Kshs 13,800,000, Kshs 9,200,000 for 2014/2015 FY while

in 2015/2016 FY the allocation was Kshs 10,500,000. In 2014/2015 FY Kshs 7,500,000 was re-allocated from Education vote head to tree planting vote head.

2. All the groups awarded were duly registered with constitutions. Most the groups were in existence before and are involved in a number of income generating activities
3. A contractor (Pindra Systems Ltd) was engaged to supply assorted implements worth Kshs 4,900,000 while Kenya Forestry Research Institute (KEFRI) was contracted to supply tree seeds worth Kshs 1,388,000. The status of quantities supplied and deficit is given in the appendix.

4. The groups sampled confirmed receiving some of the implements as per the schedule. None of the groups received the complete regiment of the implements. This is confirmed by the unsupplied items as is detailed in the appendix. No group for instance confirmed receiving money maker foot pump though records from the executive indicate that 30 were supplied.
5. The groups were instructed to return a portion of the labor money given to them for purposes of supervision. These amounts ranged from Kshs 1,440 to Kshs 7,000 except for West Uyoma where the two groups remitted Kshs 170,000. Groups that did not comply were threatened with non-consideration in subsequent awards. Some were denied the implements despite receiving the cash. These refunds were collected by a secretary on behalf of officers in the department of Environment, Water and Natural Resources. Taking an average of Kshs 6,900 per group from a total of 76 groups, an approximate amount of 520,000 was received by the department for supervision purposes.
6. No supervision was done in all the wards by officers from the department. Without supervision, the achievement of objectives of the projects could not be ascertained.
7. The groups whose trees had withered placed the blame on lack of rains and other adverse weather conditions. This notwithstanding, adequate resources were given with the knowledge that such conditions are present in such areas. Furthermore officials of such groups have been residents of those areas and were well aware of such conditions as they did applications to considered for the awards. These therefore could not be valid reasons for failure to see the projects to their successful end.
8. In East Asembo Ward where 2014/2015 allocations were paid in good time, one of the groups, Awilo, was passed as inactive and had made no notable progress. However, they were paid 200,000 same as other groups. These actions constitute an act of commission on the part of officers supervising the project and those making the actual payments. Tax-payers money was hence expended in a project with no value.
9. The schools where the trees were planted appeared not substantially involved in the taking care of the seedlings. This lack of involvement was a contributing factor to low survival rates for the planted trees.
10. Targets given to groups were varied, discriminative and suspicious. For instance, one group in West Uyoma was given a target of 3,900 seedlings with an allocation of Ksh 500,000. A group in Sindindi on the other hand was given a target of 20,000 seedlings with an allocation of Kshs 200,000. What's more, the groups with smaller allocation did work of more value and produced more seedlings compared to groups with higher allocations.
11. Apart from East Asembo and West Uyoma, all groups in 2014/2015

FY had not received their due funds. It was interesting to note that the groups that had not received the funds had more valuable output and actually supplemented the department's efforts towards afforestation. The committee noted a peculiar concurrence that the Chief Officer in this department hails from West Uyoma and has a strong pedigree in East Asembo.

12. The Kshs 7.5 Million that was re-allocated for tree planting activities was purportedly used to plant trees in Migwena in South Sakwa Ward. An approximation of 95% of the few trees planted in Migwena withered away while the remaining ones are also on their way out.
13. The 2014/2015 groups were to be given money to buy implements for themselves as opposed to 2013/2014 who were supplied with these implements. The committee could not confirm from the two groups if they actually bought the items, which were of the approximate value as those needed in the preceding year. To this end it was not clear if the department got value for money from this award.
14. Most groups produced the seedlings successfully; however, there was a gap in the process chain, especially at the planting stage. While this was the stage that needed strict supervision to ensure that the seedlings took off, it was left at the mercy of the demotivated group members and institutions that did not share into afforestation the dream of the department.
15. Most of the 2014/2015 groups felt cheated and had developed adverse perceptions about county government projects. In Sidindi ward for example, one group official bitterly confessed with unkind words, that they shall henceforth disregard any new attempt by the county government to involve them in any project in future.
16. There are groups that had abandoned the projects or were dormant and labeled as those with 'no progress', yet they still appear in the database of the department as having won the tender award. Such groups are still liable to receive the allocation should they fall due.
17. Apart from groups in Yimbo East Ward, all other groups in 2015/2016 financial year had not started any tree planting activity. Other legislators had toyed with the idea of re-allocating the tree planting funds to other viable projects.
18. Awardees of the 2015/2016 allocations were identified in a manner that is not consistent with the known procurement laws and regulations. It is reported that identification was single handedly done by a Mr Wambisa who is the Governor's economic advisor. This has brought about controversies with respect to the capacity of the groups to undertake the assignments.

7. RECOMMENDATIONS

1. Records from the ground show a wide variance of what the supplier

(Pindra Systems Ltd) supplied and what was actually received. More so, 50% of the items that were to be supplied by the same contractor in 2013/2014 financial year were not supplied, yet the project beneficiaries had since closed shop and moved on. The Chief Officer of the department of Water, environment and Natural Resources has fiduciary responsibility to account for all the public money that might have been lost by virtue of unsupplied items and any other related expenditure with utmost urgency. This committee therefore recommends that the said chief officer presents to this house a detailed account of all the transactions between the contractor and the department with clear documentary evidence within a period of 14 days from the date of adoption of this report.

2. Going by the evidence from the ground, all tree planting tender awardees returned a portion of the monies they received under the labor vote head, to the director of Environment, Mr Gabriel Oduongo. The monies were received by the secretary in his office and other persons delegated by him on his behalf. All group members met by the committee during the investigations confessed that no supervisor from the department ever visited them. Estimations from the percentages that were being refunded by the groups vis-à-vis the different sizes of the labor vote heads points to an approximate figure beyond half a million having been returned for the suspicious supervision purposes. This committee recommends that the director presents to this house details of all the monies refunded by the groups and an account of how the monies were used within 14 days from the date of the adoption of this report. The report must also expound on the criteria used to determine how much refund was required per vote head and why no supervision was carried out.
3. The tree planting activities over the three last financial years were carried out in an uncoordinated manner with no patterns, no ideals, no strategy and no foresight on the objectives of the whole exercise. There was evidently no commitment from the responsible officers of the department to save this county from the adage of having the poorest forest cover in the country. This committee therefore recommends that all tree planting activities be halted with immediate effect until such a time that department shall have put in place clear policies, implementation and monitoring plans. These plans must be presented to this assembly for review pursuant to administrative oversight objectives as stated in the Article 185(4) of the Constitution of Kenya, 2010. This move will save this county government from channeling funds to projects without any impact in the present and future lives of the citizens of Siaya.
4. There are groups that received funds and either did no work or did

shoddy work. These groups should be held accountable by the department that contracted them, failure to which they should be black listed from dealing with the county government in future. The groups that did no work but were given monies should refund the whole sum to the county government failure to which the officers who knowingly paid such groups be held accountable for defrauding this county of public funds,.

5. Given that most groups that were mandated to plant trees preferred schools and other public facilities as planting grounds, the department must come up with a memorandum of understanding between the county government and the institutions so that there is established a synergetic relationship between the two parties. This arises from the observation that groups planted trees in schools and later blamed the administration for subsequent failure of the tree development.
6. It was observed that the award letters and contracts did not have any timelines guiding the start and end of these tree development projects. Any contract must have timelines that guides even the progress payments. This committee recommends therefore that in future, the department must have clear progress timelines. Payments must also be pegged to successful completion of a particular stage. This will save this county from instances where monies are given to groups that have nothing to

show after the completion of the projects.

7. The 2014/2015 awardees had not received their funds, some had abandoned the projects while others did not do any work. This committee recommends that before any of the payments are made, the department must do a clear audit in consultation with the Ward Administrator, of the group activities, so that no funds are channeled to moribund projects. Any monies due to a group that has not done any work should be reallocated by the Assembly in consultation with relevant departments to create value for public money.
8. The Chief Officer in the department have an obligation to explain why there was apparent discrimination in the payment of funds in the 2014/2015 financial year where only two wards out of the rest got the funds. It could be imagined that the action to give funds to only two wards was deliberate and could have been motivated by other interests because there were more effective and deserving wards. This explanation should be given alongside others demanded for above within 14 days from the date of adoption of this report.
9. The trees which were planted in Migwena are surrounded with considerable financial mysteries and potential governance issues. This committee requires from the CEC member responsible for Environment, Water and Natural Resources, a detailed audit report

2016 SIAYA COUNTY ASSEMBLY DEBATES

of how the Ksh 7.5 Million was used, persons responsible for the activities and a show of how the County benefited from this huge expenditure. This report should be presented to this assembly within 14 days from the date of adoption of this report.

Failure to respond to the demands of these recommendations would be construed as attempt to cover financial impropriety contrary to principles enshrined in the Public Finance Management Act, 2015. In the event that any of these recommendations and associated timelines are disregarded, references shall be made to Section 40 of the County Government Act for subsequent steps, in addition to this, this Assembly shall refuse to approve budget proposals from your department in the subsequent financial years until these recommendations are fully addressed.

Mr. Temporary Speaker, Sir, on behalf of the committee and pursuant to standing order 200(e) and (g), it is my pleasant duty to table the committee report on status of tree planting activities in the FY 2013/2014 to date as sought in the statement by Honorable Walter Okello on this

.....day.....2016.

signed.....

.....date.....

Hon. Elisha Okuku, MCA

Chairman, committee on water, environment and natural resource

On that note I would request Hon. Munda to second.

Hon. Munda: Seconded

(Question proposed)

Hon. Ndonji: Thank you, Mr. Temporary Speaker, Sir. I first of all want to thank the Committee for a job well done though there are a few issues that I may want clarified. It has been said that East Ugenya was given Kshs. 1.5 million and I want to state here that nobody gave East Ugenya such an amount. That was an allocation in the Ward's budget and hence it is improper to use the word 'given'.

The allocation was specific that it was supposed to be used in coming up with environmental clubs in schools where the school children would take care of nurseries, disseminate information, embrace the issue of tree planting and even organize for cleaning exercises in a bid to sensitize the surrounding community on the importance of having a clean environment.

I must also say that it is not a surprise to me and I believe to other Members too that Nyeri County has the biggest forest cover. I think part of it can be attributed to the fact that the late Prof. Wangari Maathai hailed from that area.

One thing I don't understand from the Report is why we have variances in amounts allocated for implements. You realize that there was a variance in labour charges per Ward.

Mr. Temporary Speaker, Sir, our county government should not just be doing things for the sake of it; whatever we do should be for the benefit of the people of Siaya County. We have noticed that our government is so notorious in coming up

with spontaneous programs that are not well planned and at the end of the day we end up losing colossal amounts of money. When over sighting, there should be a parameter and hence there is need for clear guidelines and policies that guides our oversight responsibility.

Mr. Temporary Speaker, Sir, I also have a question to raise and it has to do with East Asembo Ward where it is claimed that the Ward Administrator had initiated for the funding of the Ward projects. I don't understand how this happened because I know that the Ward Administrator is not supposed to initiate anything to do with funds but is supposed to help the Executive in implementation.

On numerous occasions, the Executive plans to implement projects at the Ward level without even preparing the locals. A good example is when dairy cattle were being given to groups where you realize that even the beneficiaries were not properly prepared. The same happened when poultry was being given to groups in the Wards yet there were no proper engagements to enable them learn more. If people are engaged, they own the projects being taken to them.

Lastly, Mr. Temporary Speaker, Sir, for East Ugenya Ward it is being said that the Kshs.1.5 million benefited five groups. As far as I am concerned, it was supposed to benefit six groups although our initial thought as a Ward was that the money was to be taken to different schools so that we can have the culture of environmental conservation from the school level. Thank you, Mr. Temporary Speaker, Sir.

Hon. Olasi: Thank you, Mr. Temporary Speaker, Sir, allow me to first of all thank the Committee on Water & Irrigation for a job well done. I will be

very brief and straight to the point; the project of tree planting was meant to increase the tree cover in our County. Allow me to register my concern that some group in the Executive thought it wise to use this particular opportunity to milk the money from our County. How come that in North Alego, a group was given Kshs.125, 000 for a target of 20,000 trees and there was another group in West Uyoma given Kshs. 500,000 and the targets were 3,900.

I believe anybody who can hear but not see can sense some malice in this. I was among the people who visited some schools; an immediate example is a group of young ladies in Yala Township Ward by the name Tinis. This group confessed that they borrowed a loan from the bank and they did the necessary by planting trees and took them to schools and to date they have not been paid.

Another example was in Siriro. They returned some money in the name of supervision and yet supervision took place. In conclusion, they were saying that the money that was returned to the Chief Officer and I am not afraid to say that the chief officer and the director were mentioned in each and every Ward that the Committee visited in the name of either receiving the money or the reason why this particular project failed. I believe that there is a cartel who wants to bring this County down by stealing from the viable projects that can change the life of our people. I rest my case.

Hon. Temporary Speaker: Thank you, Hon. Olasi for being very serious today.

(Laughter)

Hon. Aneme: Thank you, Mr. Temporary Speaker, Sir; first of all I want to support this Report. In fact this Report

2016 SIAYA COUNTY ASSEMBLY DEBATES

brought to us today if you read it through as we have done, it is well researched, it has exposed all the evils that are not known, I want to start with the supervision, to my understanding I believe when a project is starting and particularly a new project like tree planting in Siaya are projects given to our people who were not trained in those lines. I can't seem to remember any college in Siaya where, all those youth groups wherever they are, have been trained in although they used to do them in local way.

Take for example women groups, I have never seen in Siaya where women groups are trained how to plant trees so in the area of supervision if the Executive wanted really the project to be a success they should have gone down to the Wards to identify all these groups and give provide capacity building and then the trainers should have worked with the groups at the time of delivery of seedlings and nurturing them before they come to a maturity stage where they sell them.

This is where even if somebody is saying that some little money was committed for supervision it is understood but in a scenario whereby not even 100holes are there with seedlings in them and the money has been returned back for supervision.

This is purely theft, siphoning money from the community and in that vein I would like that this Report gives us all the supervisors who were collecting these monies back, we need to know them even if it was one person collecting all these monies in the entire Siaya. So that they tell us exactly where they got the money they siphoned from Migwena and elsewhere so that we can know how much money was returned from Otieno or Omollo. So, it is very painful; they are

lying among themselves, one coming from the field to lie to the other one in the office to give the money and then they go and return it.

So, in that vein I would like to request this Committee to go back and redo the Report. This Report should give us all the supervisors who collected this money. I would wish to know them, even if it is one person who was collecting all this money in the entire Siaya County. If they are three or four people, we want to know them so that they tell us exactly where they got the money they siphoned from Migwena and elsewhere so that we can calculate that money to know how much money was returned back to Otieno or Omollo, then from there we will start another war to see where that money was deposited.

It is very painful. In Kenya Siaya is the naked County in terms of vegetation. When those who think positively like the Assembly and some others in the Executive, thought it wise to cover Siaya with trees, then 2 or 3 people should not be left to impoverish Siaya the way this Report is exposing them. It is very pathetic.

The other area that is also paining most is the 7.5 Million in Migwena. Migwena is my compound; I have an office in Migwena. Mr. Speaker, Sir, you have been to Migwena, if you go to Migwena there were not even 100 seedlings planted in Migwena. The Governor came with his team and all of them were newly dressed in green t-shirts, could be that is the money they used to buy the uniforms that they put on when they were going there and instead saying that they spent 7 million on Migwena seedlings. The few pupils that came from the schools around just picked 20

2016 SIAYA COUNTY ASSEMBLY DEBATES

seedlings in the schools as a token to them so that they can also plant in their schools which I don't think survived because there has not been rain in Migwena for one year.

Let me not be scared because I am staying in an arid place. I know that if we dedicate this Report to our Implementation Committee, nothing is going to come out. I would want a scenario whereby we as the House we call these supervisors back here so that they explain to the entire House, which group he visited, supervised, and trained and why he was paid back the money.

If we go that direction and they are not giving us any convincing answer, they must pay back the money to the County Government. This is pure theft and I know like now they would be willing again to have such money put in the budget so that they go that route again the way they did the first time.

The Report is very good; it really exposed to us the nakedness and theft in the Water Department. Sometimes if you look at them they look like those who can receive money, so it is very painful. Thank you, Mr. Speaker, Sir.

The Temporary Deputy Speaker

(Hon. Abayo): We want to look at them, where are they Hon. Aneme.

(Laughter)

Hon. Augo: Point of information!

Hon. Augo: Thank you, Mr.

Temporary Deputy Speaker, Sir, my point of information is that the House doesn't have a quorum.

*(The Clerk counts the Hon.
Members present)*

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Members, it is confirmed that we do not have quorum and I want to refer you to Standing Order 32,

Sub section 2(a), because we only have 10 Members in the House, I want to direct that the bell be rang for 8 minutes.

The Hon. Member who raised the issue of quorum has already left! As the bell is rang I direct that no Member leaves the Chambers.

(Bell rang for 8 minutes)

The 8 minutes are over and we still do not have quorum. I therefore draw your attention to Standing Order 32 part 2(a), that if the Speaker is in the Chair, the Speaker shall adjourn the House until the next Sitting without Putting the Question.

I therefore wish to state that the discussion of this Report be carried forward and that we consider it in the next Sitting. There are a number of issues that have been raised. A Member has even raised the issue of rethinking about this Report within this time until it is tabled in the House for continuity, the Committee may want to consider that.

On the provision of Standing Order 32 part 2 (a), this House stands adjourned until tomorrow at 2.30 p.m.

The House rose at 4.13 p.m.

THURSDAY, 13TH OCTOBER, 2016

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

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

PRAYER**COMMUNICATION FROM THE CHAIR**

Hon. Members, I have the following communication to make, one, is in regard to Liaison Committee. In our previous meetings, we have said that Liaison Committee work should be taken very seriously and that has been said before; there should be no permission to sit outside the precincts of the Assembly without express authority from Liaison Committee.

Secondly, there are some Petitions which have come to this House which I want the House to address. There is one from West Uyoma where residents feel that there were allocations or problems which they think weren't consulted.

There are other ones from Yimbo East and North Gem. I want to Commit this to Budget and Appropriations Committee to look at those concerns, talk to the MCAs from those areas, get their views, look at the law, consult the CECMs and the CECM in charge of Finance before you communicate to these people.

There is another one from a group from Nango community where it is alleged that a parcel of land was grabbed by a private developer who attempted to erect a fence but his efforts were thwarted by members of the public who peacefully protested against the same. This should be committed to the Committee of Lands.

There is also a Petition from Ugenya Sub County residents which they addressed to the Governor and the County Assembly in regard to allocation of employment opportunities in the County Government and I commit this to the Committee of Governance to look at it and bring a Report within the stipulated time.

There is a message from the Governor and the Executive in regard to suspension of the allotment of 6,000 acres to Godavari Enterprises Limited in Yala swamp and allow me to read this. It is a letter addressed to the chairman, National Land Commission and it reads;

**RE: SUSPENSION OF THE
ALLOTMENT OF 6,000 ACRES TO
GODAVARI ENTERPRISES LIMITED
IN YALA SWAMP**

Please refer to our application for allocation of 6,000 acres of land to Godavari Enterprises Limited.

I am writing in reference to your notice of intention to allocate land to Godavari Enterprises Limited on the 2nd of August, 2016.

The notice appeared on Standard Newspaper on Thursday, 25th of August, 2016.

This letter is to ask you to suspend the process of the allotment of the land in Yala Swamp to Godavari Enterprises Limited to allow for further consultation and comprehensive survey of the whole of Yala swamp.

2016 SIAYA COUNTY ASSEMBLY DEBATES

There is also a Report on evaluation of land title number Siaya/Mulaha302 approximately 0.7 Ha or 1.73 acres, so this we will commit to the Committee of Lands to look at it, interrogate and give us a Report. Thank you.

PAPERS

Hon. Members, Papers have a relationship with the Reports and I made a communication this week on Tuesday that we would present the list of shame. We are talking with the Chair, Liaison Committee to know which Reports are lying within which Committees. Next week we will read out to you the Committees that have not submitted their Reports and the action that Liaison Committee will be taking when you don't deliver Reports on time.

STATEMENTS

Hon. Speaker: Yes, Hon. Elisha Okuku.

Hon. Okuku: Thank you, Mr. Speaker, Sir; pursuant to Standing Order 41 (2), I rise to seek a Statement from the Chairperson of Education, Youth affairs, Gender and Social services on the alleged use of County Government funds to sponsor Primary Schools Mock examinations.

In the Statement, the Chairperson should address the following concerns;

1. Clarify Reports from social media and mainstream media houses appearing on 12th October 2016, that Siaya County Government allegedly spent an approximate amount of Kshs. 1.7 million to sponsor Mock examinations in primary schools in Siaya County;

2. Whether this alleged expenditure was budgeted for;
3. Whether there was violation of provisions of the Fourth Schedule of the Constitution of Kenya, 2010;
4. Whether the alleged printing of the Governor's portrait on the said examination papers violated any law;
5. Whether action should not be taken against the CEC Member of Education, Youth affairs, Gender and Social Services, under section 40 of the County Government Act, if it is found that there was gross violation of the Constitution.

Hon. Speaker: The matter that has been raised by the Hon. Member for Yimbo East is now a matter of County and public interest; I therefore direct that this matter be expeditiously handled by the Committee on Education, Youth affairs, Gender and Social services and a Report availed to this House by Wednesday, 19th October, 2016 at 2.30 p.m. and there will be no room for extension, kindly oblige as directed.

Hon. Gare: Thank you, Mr. Speaker, Sir; allow me on behalf of the Majority leader to read the tentative business for Tuesday, 18th October to Wednesday, 19th October, 2016 pursuant to Standing Order number 36 (1). Mr. Speaker, the House Business Committee in their last meeting approved the following tentative business to appear in the Order paper for the week commencing Tuesday, 18th October to Wednesday, 19th October 2016. On Tuesday, 18th October 2016 afternoon Sitting, Report on the Committee on Finance, Trade, Industry, Labour and Cooperatives on unfair trading

2016 SIAYA COUNTY ASSEMBLY DEBATES

practices and competition by Ugandan traders at selected beaches in Bondo and Rarieda Sub Counties.

On Wednesday, 19th October, 2016, Report on the Committee on Finance, Trade, Industry, Labour and Cooperatives on unfair trading practices and competition by Ugandan traders at selected beaches in Bondo and Rarieda Sub Counties to continue in the morning. On Wednesday, 19th October, 2016, response by the Committee on Education, Youth affairs, Gender and Social services on Statement issued by Hon. Elisha Okuku, MCA, Yimbo East Ward on alleged use of funds on primary schools Mock examination by the County Government of Siaya.

MOTION

(Continuation of debate interrupted on Wednesday, 12th October, 2016, at 2.30 p.m.)

Hon. Speaker: Motion was interrupted, so you will proceed from there.

(The Speaker (Hon. Okode) left the Chair)

(The Deputy Speaker (Hon. Adera) took the Chair)

Hon. Deputy Speaker: Let's proceed! Hon. Members we had the business yesterday, there is a Motion we were discussing and that's the Motion we are referring to. Maybe I would give the Chair of the Committee time to highlight so that Members can catch up with what was going on. I will give you another time, Chair, can you take us through?

Hon. Agoko: Thank you, Mr. Deputy Speaker, Sir, yesterday we were debating on the Report on status of tree planting projects tenable in FY-2013/14,

2014/15 and 2015/16. As you are aware the debate was interrupted midway and Hon. Munda was on the floor. I would therefore request Hon. Munda just to carry on.

Hon. Deputy Speaker: It's like you interrupted before you made your comment on the Motion. Can you precede, Hon. Munda!

Hon. Munda: Thank you, Mr. Deputy Speaker, Sir. I was in attendance but I wasn't given a chance to talk. Now that I am being asked that, I am ready and willing to do that. As you all know that in Siaya there is only 2% forest cover and everybody knows that trees make us get enough rainfall; if they aren't there then we are doomed as a County.

We found out that in Siaya, there isn't enough forest cover and this proposal that the County Government came up with to give some youths money to do this exercise was a good thing and could have improved the uses of rain in our County which is important because most of the time like now we don't get rain adequately and people are really suffering even in West Asembo Ward where I come from. They are really suffering just because there isn't adequate enough cover in Siaya County.

Those that were given tasks to do; tree planting had and a lot of problems as you can see in the Report. They were lacking so many things which the County Government was supposed to provide but in essence the County Government did instead some groups which were given money were forced to remit some monies back in the name of official supervision.

The supervision bit that was supposed to be done by these officers was not done and that brought us to the conclusion that they were not serious. The

County Government was not serious with the exercise, telling the groups to remit money for supervision which was not being done really wasn't good as we all know that in anything that we do even in schools, if there is no supervision, nothing can be well in school and even in the things that we do around. If a building is not supervised well, nothing can come out nicely, so supervision is key and it could have been done now that it wasn't done and monies were dated back with references for the same purpose.

It beats logic that they didn't do the thing that we were supposed to do. Last but not least, the 14 days that the Committee gave this group was not enough and something should be done about it. I know with the County Government of Siaya, these 14 days we will not bring back the Report from the department so I think they should be forced to meet in the best time possible because the Reports and answers are needed in good time. Thank you and I support the Report.

Hon. Deputy Speaker: Yes, Hon. Zilpa.

Hon. Awino: Thank you, Mr. Deputy Speaker, Sir. Having listened as this Report was being read, I felt very sad because it is like somebody just took money and threw it in River Yala and millions of shillings went with the water. If you look at the pictures, you hardly see the trees that were planted yet money was used. In the Report, it is stated that a total of Kshs. 7.5 million that was reallocated for tree planting activities was purportedly used to plant trees in Migwena area; but if you look at the pictures, there are hardly any trees in Migwena. How do you throw away Kshs. 7.5 million in such a manner!

As far I am concerned, this tree planting project is shrouded in some mystery and I think it is necessary that the Chief Officer who is the accounting officer of the Department of Environment, Water and Natural Resources should give us an account of how this money was really spent.

Members budgeted for tree planting in their respective Wards and I think proper planning should have been done. If we plan to use schools to plant trees, then the respective school heads should be brought on board during the planning stages so that there is ownership of the project. This explains why most of these trees dried up after being planted in schools. There was simply no ownership. If the school heads had been involved, then they would have rallied their pupils to take good care of the trees by watering them.

I also think that some of these trees were not planted properly. There was need to use even farmyard manure in areas without rich soil. From the pictures in the Report, it's like it was just a matter of digging holes and throwing in tree seedlings. The whole planning was poor and it has resulted into the loss of monies. In future, if anything is to be done, let all stakeholders be involved so that they own what is done.

I am a very disappointed person because I know that millions of shillings have been wasted in this project. Thank you.

Hon. Gare: Thank you, Mr. Deputy Speaker, Sir. I want to say that the tree planting idea was actually very noble and with good intentions. But what it turned out to be is a shame to the county and we are quite disappointed. I don't know whether this is the type of corruption that we are talking of in Siaya. If

2016 SIAYA COUNTY ASSEMBLY DEBATES

somebody was required to supply something and supplied only 50% then that is corruption.

It is good that the Committee recommended some timelines of about fourteen days, but I want to say that we should follow up this matter to its end. Let it not just end with the adoption of this Report by this House. In fact, after the fourteen day period, the Committee should give us another Report so that we see the action taken against some of these officers. If we don't do so, then this Report may just go the direction some of these other Reports have gone.

Whatever happened is very serious and Mr. Deputy Speaker, Sir, we want to see the names of some of these companies or groups blacklisted. That is when we will be sure that we are doing our oversight mandate. We will not continue sitting here just to pass Reports that are not implemented; and that is why after fourteen days, we should have another Report detailing the actions taken against some of these corrupt people. Let us adopt the Report but wait to see what has happened after the elapse of the fourteen days period. Thank you.

Hon. Deputy Speaker: Yes, Hon. Aneme.

Hon. Aneme: May I talk for the second time.

(Laughter)

Hon. Okuku: You can't talk twice!

(Laughter)

Hon. Deputy Speaker: Hon. Aneme, did you contribute yesterday?

Hon. Aneme: Yes, but I didn't finish.

(Laughter)

Hon. Gare: The Standing Orders are very clear.

(Loud consultations)

Hon. Aneme: How many Speakers do we have today?

(Laughter)

Hon. Deputy Speaker: Hon. Chief Whip, I will throw you out because you are disobeying the Standing Orders.

Hon. Aneme: Let me just add the bit which remained.

Hon. Deputy Speaker: Hon. Aneme, did you contribute yesterday?

Hon. Aneme: Yes, halfway.

(Laughter)

There was no quorum so---

Hon. Deputy Speaker: The Chair will give you another opportunity to make your contribution.

Hon. Aneme: Thank you very much, Mr. Deputy Speaker, Sir. I will do it very fast no matter how long I am going to take.

(Laughter)

What I wanted to add yesterday is that it is so painful that some groups were given letters of award and to date they still have those letters but have not seen anything up to date. Where did their money go? Did the money go back to the Chief Officer of the Water Department? This is one of the areas that make me emphasize that these people be called upon to appear before this House to explain to us these things.

Mr. Deputy Speaker, Sir, this Report is very good. I really congratulate my colleagues, but if we leave all these

recommendations to pass without anybody going home to escort this Report, then we will also be doing injustice to this county. I would emphasize that the Chief Officer and Director in the Department of Water, Irrigation and Natural Resources be called upon to appear before us and explain these things.

This report is very good and I really congratulated my colleagues for it, but again if we leave all this misinformation to go without someone also following it by going home then we will also be doing injustice to the people of this County. I would emphasize that this Chief Officer of water and the director be called to appear before us and explain themselves to us because that is the party that was cut off before I came in. Thank you Mr. Deputy Speaker, Sir.

Hon. Deputy Speaker: Hon. Omar Shaban!

Hon. Shaban: Thank you, Mr. Deputy Speaker, Sir, let me also add my voice on this report. First of all, I congratulate the Committee for this good report with appropriate recommendations. I want to say that the money that the officers in the department of water were swindling is public money and was budgeted for by the people from those given Wards.

This means it's constituted in the development fund that is always given to the Wards. To the citizens, they will not know that it's the Executive or the people concerned with the implementation are the ones responsible, but to them it will be that their respective MCAs are the ones who have not ensured that the trees are planted, watered and are taken where they are supposed to be, even us as the MCAs who budgeted for this money will be up in arms to make sure that this money is refunded

before next budget. We want this money to be available so that we can budget for a different thing for the development of our Wards.

There is a Member who has said that the people who did not do any work are supposed to be blacklisted, but the problem is that the people who are supposed to black list are the same people who have disappeared with the money. So, there will be a problem on how to handle this and it is us to deal with it by first dealing with the people who stole the money then follow up with the groups that received money but didn't do any work. In the report, the groups that received money but didn't do any work are the same groups that were awarded the tender in the FY 2015/2016 which has also not been done.

Lastly, there are few individuals who have been mentioned in this report and I think the Committee was very specific. So, before the 14 days elapse, let's have these people at the Assembly here, let them explain to us exclusively where the money that was returned to them was taken and why it was legal for them to take back the money. Thank you, Mr. Deputy Speaker, Sir, I support the report.

Hon. Deputy Speaker: Hon. Olasi, did you make any contribution yesterday?

Hon. Olasi: Yes, I did but due to lack of quorum and adequate time, I did not finish my contribution.

(Laughter)

Hon. Deputy Speaker: Hon. Olasi, you know that when there is lack of quorum half way, we cannot nullify whatever has gone to the Hansard. If you made contributions, it's already in the Hansard, therefore we cannot rub what has

already been taken in. So, you have to forfeit your chance to Hon. Adida and only if she did not contribute yesterday. I am sorry, Hon. Olasi, but we have to follow the rules of the House.

Hon. Adida: Thank you, Mr. Deputy Speaker, Sir, allow me to say that I didn't contribute because I was not there. I congratulate the Committee that brought this report to introduce nursery and tree planting. It was a very noble idea the County undertook but it is very sad to realize that not so much has been done and I think initially there was supposed to be a sensitization of these groups that were supposed to engage in tree planting which again was necessary.

You realize that like a case in a Ward, the group didn't know even what they were supposed to do because they were expecting that the County was going to give them money in advance to use for the purpose. I think there was need for sensitization before they could start the exercise as well as take the contract.

There is this recommendation No. 9 which has really triggered some friend of mine in Bond. I remember when you were following it up through education, there is that addition 96 million and when you were following it up keenly you found out that there is 24million that had already been spent. As we were trying to follow to find more, we were informed by the then CEO Education that Kshs 7.5 million had been spent on tree planting and when we went deeper, we found that the trees were not even there. You also understand and I think it is high time we did much more than we are already doing. At this moment I think it would be better for both CEO and the CEC in charge of this docket to be brought forward to answer these questions.

Mr. Deputy Speaker, Sir, going by the mood of the House, allow me to call upon the Mover to reply. Thank you.

Hon. Deputy Speaker: Hon. Adida, how do you read the mood of the House? Okay I can see you have really read the mood of the House and I conquer with you that there are no more contributions, therefore, I call upon the mover to replay.

(Laughter)

Hon. Agoko: Thank you, Mr. Deputy Speaker, Sir, I want to appreciate my colleagues for standing with us to support the motion and I also want to appreciate the mood that has been there. I would want to reiterate that this was a scam where Kshs 41 million was involved and you realize that in 2013 alone a company that was given 4.9 million to supply implements but did not even supply up to 50% of the contract. Groups that were supposed to be given seeds did not receive any the groups that was to be given implements did not also receive any. In this, you realize that there were a bit of discrepancies and I want to give an example of Sidindi Ward where groups that were given Kshs. 20,000 supplied 20,000 seedling as expected and indeed they were supplied, same to groups in North Alego.

While two groups in West Uyoma that were given Kshs. 50,000 supplied less than 3900 seedlings which again you wonder how because they did not also supply as indicated. In this scenario there was no value for money and I want to conquer with the Members in their deliberations and thank them as well as call upon them to pass this motion. Thank you so much.

(Question put and agreed to.)

MOTION

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, there being no other business, the House adjourns until Tuesday next week at 2.30 p.m. in the Chambers.

The House rose at 3.13 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 18TH OCTOBER, 2016

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

1. SCHOOL VISIT

The Temporary Speaker (Hon. Adida): Hon. Members, in our Public Gallery today are Form Four students of St. Sylvester's Madiany Secondary School in South Uyoma Ward. They are visiting the Assembly for an excursion. Accompanying them are the following teachers;

1. Ms. Evelyn Ochieng'
2. Mr. David Adamo
3. Mr. Stanslaus Ooko

Can we kindly welcome them in our usual way?

(Applause)

You are welcome.

2. RELEASE OF PERFORMANCE CONTRACT EVALUATION RESULTS

Hon. Members, allow me to give another communication from the County Secretary in regards to the release of performance contract evaluation results for the FY 2015/2016 and signing of new performance contracts for the FY 2015/2016. You are invited to attend the occasion which will be held on 21st October, 2016 from 9.00 a.m. at the Agricultural Training Centre.

Next Order!

MOTION

REPORT OF THE COMMITTEE ON FINANCE, TRADE, INDUSTRY, LABOUR AND COOPERATIVES ON UNFAIR TRADE PRACTICES

Hon. Munda: Madam Temporary Speaker, allow me to move the following Motion:

THAT, this House adopts Report of the Committee on Finance, Trade, Industry, Labour and Cooperatives on unfair trade practices and competition by Ugandan Traders at selected beaches in Bondo and Rarieda Sub Counties laid on the Table of the House on Tuesday, 11th October, 2016 at 2.30 p.m.

I wish to request Hon. Ndonji to second.

Hon. Ndonji: Madam Temporary Speaker, I second.

The Temporary Speaker (Hon. Adida): Hon. Member for West Asembo, kindly continue.

Hon. Munda: Thank you, Madam Temporary Speaker. On behalf of the Sectoral Committee on Finance, Trade, Industry, Labour and Cooperatives and pursuant to the provisions of Standing Order 200(5), it is my privilege and honour to present to the House, the Report of the Committee on its investigations into the alleged unfair trading practices along the beaches.

The investigations were necessitated by a Statement request by Hon. Willis O. Ochieng, MCA West Yimbo, over allegations of unfair trade

2016 SIAYA COUNTY ASSEMBLY DEBATES

practices at the beaches giving Ugandan traders an advantage in fish trading as compared to their Kenyan counterparts. The Committee, in its Sitting held on 29th April, 2016, resolved to conduct investigations into the matter with a view to recommending measures to improve the trade practices and County Government services along the beaches.

COMMITTEE MANDATE

The Committee on Finance, Trade, Industry, Labour and Cooperatives is one of the Sectoral Committees established under Standing Order 200 and is mandated to:-

- (h) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (i) study the programme and policy objectives of departments and the effectiveness of the implementation.
- (j) study and review all legislation referred to it;
- (k) study, assess and analyse the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (l) investigate and inquire into all matters relating to the assigned departments as they may deem necessary and as may be referred to them by the House;
- (m) vet and report on all appointments where the Constitution or any law requires the House to approve, except those under Standing Order 195 (*Committee on Appointments*); and

- (n) Reports and makes recommendations to the House as often as possible, including recommendation of proposed legislation.

COMMITTEE MEMBERSHIP

Madam Temporary Speaker, the Committee on Finance, Trade, Industry, Labour and Cooperatives as currently constituted by this Assembly comprises the following Members;

- 1. Hon. James Munda - Chairperson
- 2. Hon. Erick Ndonji - Vice Chairperson
- 3. Hon. John Gare
- 4. Hon. Beatrice Obondo
- 5. Hon. Nicholas Were
- 6. Hon. Willis Ochieng'
- 7. Hon. Anjeline Achieng'
- 8. Hon. William Angul
- 9. Hon. Peter Ombee
- 10. Hon. Kesia Siwa
- 11. Hon. Teresa Osore

EXECUTIVE SUMMARY

Madam Temporary Speaker, following a Statement request by Hon. Willis O. Ochieng, MCA West Yimbo, over allegations that the Ugandan fish traders were not taxed thus giving them undue market advantage over their Kenyan counterparts' and eventually massive revenue loss by the County Government, the Committee resolved to visit selected beaches of Wich-lum, Ndeda, Obenge and Kamariga to gather facts around the aforementioned allegations and consequently report and make possible recommendations.

The following Objectives guided the overall enquiry;

- To establish revenue/charges levied on the fishing community and related traders by County Government of Siaya

- To authenticate the existence of Ugandan traders at the beaches
- To ascertain whether Ugandan traders at the beaches pay taxes/county government levies
- To find out the services offered by the County government to the fishing community along the beaches.

Madam Temporary Speaker, the findings of the Committee confirmed that indeed the county government of Siaya is losing a lot of revenue from various untaxed fish related businesses at the beaches for lack of appropriate legislation. The fourth schedule of the Constitution of Kenya, 2010 devolves trade development and regulation, including—markets, trade licenses (excluding regulation of professions) and fair trading practices. Amongst the key findings of the Committee is that the fish is exported from the beaches in the county to Ugandan markets without payment of any levies except the Kenya Revenue Authority (KRA) charges which goes to the National Government.

The Committee also noted that the local and regional traders leave the beaches with several kilograms of fish to various destinations without meaningful revenue to the county government except the Kshs. 1 per kg cess charges while Kenyan traders and fishermen are heftily taxed for engaging in the same fish related businesses in Uganda because of a well regulated and organized fish and fishing industry.

It was further noted that the alleged unfair trade practices and competition by the Ugandan traders at the beaches roots from the liberal nature of the market as guided by the forces of demand and supply

of fish. The Ugandan traders offer better fish prices to willing Kenyan sellers thus disgruntling their Kenyan counterparts. However, there is no favoritism as alleged but rather lack of and or insufficient legal structures as regards revenue collection and thus putting all traders at the same revenue rates as detailed herein.

Madam Temporary Speaker, the Committee, after successful deliberations, conclusively recommends that the County Executive should fast track appropriate legislations that would enable exhaustive collection of all taxable fish related business activities at the beaches. Some of the possible taxes previously collected by the National Government, now devolved but not being implemented include; the fishing vessel identification tax, fishermen licenses, fish handling and fish movement permits.

On the Ugandan traders' issue, the Committee recommends that the county government should consider installing fish cooling and storage plants at the beaches to enable the fishermen have a bargaining power over the perishable product as they store them and eventually sell to buyers of their choices at favorable prices without the fish going bad. Additionally, the traders can only effectively compete with the Ugandan buyers if there is a sustainable and readily available market for the fish in Kenya and specifically Siaya County.

The county government should therefore seek to make arrangements in acquiring, either through; investments or partnerships, viable and reliable fish processing plants in the County. This shall offer ready market for fish from the beaches thus fair and competitive prices of

the product to counter the Ugandan influence.

ACKNOWLEDGEMENT

Madam Temporary Speaker, I wish to record the Committee's gratitude to the House for having entrusted us with the execution of the important duty of contributing to the efforts of restoring sanity and fairness in improving the fishing and fish related businesses along the beaches in Siaya County. These contributions, if approved, shall go a long way in reviving the fishing industry in this County.

The Committee thanks the Offices of the Speaker and Assembly Clerk for related facilitations and the entire Committee Membership for their dedication and commitment during the fact finding and deliberations that made this report a reality.

Let me also extend my sincere gratitude to the Committee Secretariat for ably coordinating the investigations and report writing activity.

Madam Temporary Speaker, it is now my pleasant duty and privilege, on behalf of the Committee on Finance, Trade, Industry, Labor and Co-operatives to present this report for immediate consideration and adoption by the House. The committee prays that this Honorable House adopts the recommendations proposed herein.

BACKGROUND

Madam Temporary Speaker, the alleged unfair trade practices at the aforementioned beaches stems from limited County government interventions in bettering the fishing industry in Siaya County. Since the advent of devolution, the subsequent budgetary allocations has

been skewed towards less and or limited interventions in improving fishing and related fish-trading. The fishing industry in Kenya and specifically Siaya County has poor market and limited and or no investments as compared to the industry in the neighboring Uganda.

The Government of Uganda has seriously invested in the fishing industry thus better fish markets and well regulated trading activities. This has challenged the sustainability of the industry in Kenya thus fierce competition and rush for fish and fish products along the beaches of Lake Victoria. Siaya county beaches bear the brunt of the results of this competition because of its proximity to Uganda- where the business is thriving.

THE CASE OF UGANDA VS. KENYA

Madam Temporary Speaker, according to the International Organization for Standardization, the Uganda fish processing industry, which is composed of private companies, was established recently with the first plants beginning their activities in 1988. At present, there are over 12 registered companies for fish processing and export -most of which are operational. All the companies are situated on the banks of Lake Victoria and Nile Perch is their main raw material. The total investment by private investors in fish sector in Uganda is approximately Kshs. 10 billion. The fisheries industry employs over 700,000 people involved in various fishing activities including fishermen, fishmongers, fish transporters and boat builders.

Before 1991 fish processing plants in Kenya were sending insulated trucks with ice and refrigerated trucks to fish landing sites in Uganda in order to collect whole fish and transport them back to

Kenya for processing in Kenyan Fish processing establishments. This practice stopped in 1991 when the Uganda Government put a ban on exports of unprocessed whole fish to Kenya and the Kenyan Investors started flocking in Uganda to set up fish processing plants to process fish that was previously transported and processed in Kenya. Currently, Madam Temporary Speaker, the number of foreign investors in the fishing industry in Uganda has increased considerably to include- not only Kenyan investors, but also Chinese and other foreign nationals with heavy and serious investments.

These circumstances have left the Kenyan fish traders' vulnerable and easy targets by unscrupulous local fish traders for lack of and or insufficient market options. Fish in Kenya can therefore easily end up in the hands of the Ugandan traders and or traders exporting the products to industries in Uganda for fair and better prices.

Madam Temporary Speaker, contrary to the aforementioned Ugandan case, there is not even a single fish processing plant in Siaya County with only two operational plants in Kisumu County. However, there are reported ongoing developments of a fish processing industry in Homabay County.

The fish market is therefore insufficient and unreliable for the local traders. This encourages the fishermen to sell to the Ugandan traders and or agents from Uganda for quick sales and better prices considering the perishability of the product.

The County government of Siaya should therefore make swift considerable efforts in bettering the fish industry.

PROCEDURE ADOPTED

Madam Temporary Speaker, in order to exhaustively accomplish the aforementioned objectives, the Committee held two meetings with the Chief Revenue Officer and the Director of the County Department of Trade in which they submitted a written response on the Statement for consideration by the Committee. This was preceded by a field visit to a sample of four beaches where the Committee held focus-group discussions with various stakeholders including the Fishermen, fish traders, the Beach Management Unit (BMU) members and the officials from the fisheries department. The Committee also reviewed crucial documents in this quest to complement the findings and consequent recommendations.

VISIT TO WICH-LUM BEACH

The Committee visited Wich-lum beach accompanied by the Bondo sub-county fisheries officers on 6th June 2016. The Committee met; the Beach Management Unit Officials, and Representatives of the fishermen and traders.

Committee Observations;

Members observed that there was fishing and fish trading activities going on at the beach even at the time of the visit. A brief inspection of the beach revealed a stalled building meant to be a fish storage and processing facility. The facility was built by the National Government under the fisheries department but their operation never took-off for lack of equipment and is currently partially submerged into the increasing waters of the lake. A general observation/ assessment of the environment around, presented unhealthy openly defecated grounds with lots of heaps of wastes and waste-materials

damped without waste management mechanisms and nor dustbins.

Submissions by the BMU officials

The BMU officials were fully in attendance led by their chairman Mr. Simon J. Odiyo, their secretary and a host of other BMU committee members.

They made the following submissions;

- The BMU levies a landing fee, from the fishermen, of 5/= per kg of fish docking at the beach
- Traders only pay –to the BMU- a one off registration fee of ksh.1000 and an annual fee of Kshs. 4000
- Emergency docking ships pay ksh.200 to the BMU
- A health license fee of kshs.2000 is paid annually by all traders to the County government
- A cess fee of sh.1 per kg of fish is paid to the county government by the traders and receipts issued. The county government revenue officer was in attendance.
- Ugandans exist and or visit the beach and trade in bananas, timber for boat making, fish(*omena*) and cereals
- Kenyans venturing in the lake are at times reportedly arrested by the Ugandan authorities and heftily fined for such issues as; illegal cross-border fishing, lack of boat/vessels identification licenses and trade licenses
- The traders prefer selling their fish to Ugandan traders for better prices
- They noted the stalled fish processing plant constructed by the National Government and is almost being fully submerged by the lake waters for lack of County

Government initiatives and concerns with the same.

- Lack of County Government market/ beach cleaners and waste management mechanisms and or officials; the BMU pays a cleaner using the little funds they levy at the beach besides taking care of security of both the beach and the fishermen while in the lake albeit with a lot of challenges and without the intervention of the county government

Submissions by the Wich-Lum Fish Traders

The representatives of the fish traders made the following submissions;

- That, there exists fair fish prices in Uganda than Kenya
- There are traders who prefer selling their fish in Uganda either by themselves or by agents or dealers
- That the fish dealers in Kisumu offer low prices besides issues of unfair business practices such as reducing the weights of fish and eventually purportedly rejecting but not returning traders fish and eventually selling and or benefiting from the same without the knowledge of the traders
- That traders lack alternative fish markets in Kenya apart from the reportedly collapsing two companies in Kisumu.
- They challenged the county government to hasten a

2016 SIAYA COUNTY ASSEMBLY DEBATES

spirited scout for fish market and or woo investors to invest in the fishing industry in the county noting the existing/stalled fish processing plants and or infrastructure at the beaches and at Bondo by the national government fisheries department and the Kenya Industrial estates respectively

Submissions by the fisheries officials and the county revenue officers

The Committee met officials from the fisheries and revenue departments, Bondo Sub-County Offices in charge of the beaches mentioned herein. They were led by the sub-county fisheries officer and they made the following submissions;

1. That, the taxes levied by the National Government were recalled since the advent of devolution.
2. The National Government used to collect the following taxes from the fishing industry;
 - I. Fishermen licenses
 - II. Boat/ vessel identification licenses
 - III. Fishing trading licenses
 - IV. Fish movement permit
3. The County Government has not been able to collect the above levies for lack of appropriate legislation and taxation tools. That they are currently only able to levy cess charges on traders trading in fish at the beach and or those leaving the beach with fish

4. The fisheries department indicated that;

- a) There are so many bodies regulating the fish industry in Uganda thus so many fishing licenses demanded from the Kenyans venturing into the Ugandan waters thus the reported harassment
- b) That Kenyan fishermen sell their fish to Ugandan traders because of good prices than those offered by the Kenyan traders

VISIT TO NDEDA-ISLAND BEACH

The Committee made a similar visitation to Ndeda-Island beach on 6th June 2016 and held a joint forum with; the BMU officials, Traders, the fishermen and the fisheries department officials.

Committee Observations

Members found out that the beach fish banda had partially been submerged into the rising water levels and is out of use. That the buildings near the shores were almost getting flooded with the lake waters. The Committee noted that the island has fairly a large population consisting of residents, fishermen and fish traders amongst other traders. There was an apparent lack of neither waste management structures nor dustbins with

lots of waste materials finally ending in the lake thus polluting the waters.

Submissions by officers on the ground (the traders, the BMU officials, the Fisheries department officials and the fishermen);

The Committee held a joint focus group discussion with the stakeholders and heard the following submissions;

- The fish traders reported that they pay 1/= cess fee per kilogram of fish
- That the cess is levied on all traders
- On the Ugandan traders' issue, there was a unanimous response that there are no Ugandan fish traders in Ndeda Island. They however alluded to the presence of other Ugandan traders trading in such goods as; cereals, bananas, boat-making timber and such but not fish.
- That there are Kenyan fish traders who personally or through agents transport their fish to Uganda for sale because of fair prices.
- That Kenyans transporting fish to Uganda only pay cess to the county government and KRA levies to the national government.
- The revenue officer indicated that Ndeda Island generates approximately kshs.45, 000 worth of revenue monthly. This is the cess collections by the County government.
- The committee also heard that the challenges experienced in the island include;

- i. Lack of toilets; increased open defecation
- ii. No security lights/ public places lighting system (flood lights)
- iii. No fish-banda (the existing fish banda has been submerged by the rising levels of the lake waters thus inhabitable
- iv. Lack of waste-disposal bins
- v. Lack of a fish store and or fish processing facility
- vi. Insufficient fish market thus fluctuating prices
- vii. Insecurity (The committee heard that the local border patrol police unit stationed at Usenge to maintain order and sanity in the island has turned on the residents and instead extorting and harassing them indiscriminately without legal recourse. The residents

2016 SIAYA COUNTY ASSEMBLY DEBATES

accused the unit of; manhandling, destruction of property, illegal confiscation of trading gears amongst other vices. The committee was informed that the matter has repeatedly been reported to the relevant security agencies but unfortunately no action has been taken. The residents recounted instances of nasty ordeals in the hands of the police visiting the island including one in which the police reportedly invaded a trader's bar and violently robbed the owner of all cash and stock before leaving the island.)

VISIT TO OBENGE BEACH

The Committee visited Obenge Beach in West Uyoma ward. They were accompanied by the Rarieda Sub-County fisheries officers led by the sub-county incharge. The Siaya County Beach management unit officials were also in attendance.

Committee Observations

- There was a well graded gravel road leading to the beach from the main road.
- There was an outstanding fish banda constructed by the county government- though small in size

Submissions by officers on the ground (the traders, the BMU officials, the Fisheries department officials and the fishermen);

- That a levy of 1/= per kg of fish by the county government was reported
- The levy is however charged on the fish traders only
- That the fishermen (the crew) do not pay any levy to the county government
- Revenue collection at the beach was reportedly inconsistent and other neighboring beaches were reported to, at-times, lack officers. The traders recommended that the revenue officers should be residents of the community in and or around the beach to facilitate coordination and collection purposes.
- Fish market at the beach was reported to solely depend on the prices offered by the traders
- The traders reportedly issue loans to the fishermen- in terms of fishing gear- thus tying the fishermen to only sell the fish to them
- Lack of fish storage facilities at the beach thus quick fish sales at low prices
- The fishermen and the BMU officers proposed that the county

2016 SIAYA COUNTY ASSEMBLY DEBATES

government should intervene in regulating the fish prices

- The traders, the fishermen and the BMU officials requested the county government to help them strengthen their existing organizations such as self-help groups and cooperatives for future possibilities of accessing credit facilities
- The presence of the Ugandan traders was affirmed in Obenge beach- though occasionally.
- That the Ugandan traders pay same rate of revenue as charged by the county government. The 1/= per kg cess, the BMU tax and the KRA levy based on the quantity upon export
- That the Ugandans base their operations in Remba Island as they collect the fish along the beaches
- That the Ugandans offer better prices for fish than the Kenyan traders
- That the Ugandan traders contract Kenyan agents to collect the fish along the beaches for subsequent export to Ugandan markets
- That the Kenyan fish dealers reportedly determine their own prices and disregard the BMUs on the ground
- The BMU officials challenged the county government to look for sustainable and alternative fish markets for the fishermen. It was noted that the Homabay county traders offer fair prices than the local traders in Siaya and Kisumu counties
- Security along the bordering beaches of Kisumu County was

also raised especially at Ralayo beach.

- The officials from the fisheries department indicated that there is no legislation barring the BMU officials from trading in fish thus no conflict of interest issues
- The BMUs indicated that the existence of the Ugandan traders at the beach has led to a good increase in fish prices due to increased competition

VISIT TO KAMARIGA BEACH

On 7th June 2016, the Committee visited the above beach and noted the following submissions;

Committee Observations

The Committee managed to meet the fishermen, the fish traders and the BMU officials. In-attendance was the Sub-county BMU officials, Obenge BMU officials, Uyoma North and West Uyoma Ward Administrators and the officials from the County Fisheries department.

In a forum attended by all the stakeholders, the following were noted;

- That the county government collects revenue from; sand-harvesters, shopkeepers and the fish traders –all trading at the beach
- That there are three revenue officers deployed in different collection points at the beach
- That all revenue charged is receipted
- That the revenue officers are periodically reshuffled for effectiveness
- It was affirmed that indeed there are Ugandan fish traders at the beach
- That the Ugandans either trade through agents of Kenyan decent

2016 SIAYA COUNTY ASSEMBLY DEBATES

and or at times visit the beaches themselves

- That whenever the Ugandan traders visit, they bring with them other goods such as cereals, bananas etc. for sale to the residents of the beach
- That the Ugandan traders pay landing fees to the BMUs before trading at the beach
- They are also levied by the KRA officers
- That Ugandan traders offer far much better prices for fish than the Kenyan traders.
- Despite the price differences offered by the two sides, majority of the fishermen still sell their fish to the Kenyan traders
- Limited/ Lack of sufficient fish market in Kenya contributes a great deal to the low fish prices offered by the Kenyan traders.
- The county government reportedly facilitated the grading of the access road to the beach to passable levels and also initiated the construction of a fish banda and a toilet whose progress however stalled in April 2015.
- The waste disposal and management mechanisms at the beach was reportedly a challenge with waste materials collected but not properly disposed of thus environmentally threatening the livelihood at the beach.
- Sentiments of market insufficiency and price fluctuations were echoed by the traders and fishermen alike thus challenging the county government to scout for reliable and sustainable fish markets

- The fisheries officers noted that the levies previously collected by the national government had been dropped with the advent of devolution thus the county government missing crucial sources of revenue. Such levies were; vessel licenses, the fishing and fish movement permits
- The area ward administrator indicated that contractors who had been contracted to execute various projects along the beaches had failed to deliver and eventual abandoned most –if not all the projects. The stalled county government projects include; fish bandas and public toilets in Kamariga beach, Kunya beach, Wikwang beach and Madundu beach.
- The Ward administrator encouraged the plot owners along the beaches to at least construct toilets for their tenants to help mitigate the toilet menace.

(The Temporary Speaker (Hon. Adida) left the Chair)

(The Deputy Speaker (Hon. Adera) took the Chair)

FINDINGS

Hon. Deputy Speaker, Sir, subsequent to the aforementioned investigative visits to the beaches and analysis of relevant secondary related documents, the Committee noted the following findings;

a) Revenue

1. The County Government levies a meager cess charge of only ksh.1 per kg of fish leaving the beach.

2016 SIAYA COUNTY ASSEMBLY DEBATES

This is charged on all traders irrespective of their nationality.

2. The Committee also noted that a lot of revenue is lost by the County Government due to lack of appropriate legislation to affect taxes previously collected by the National Government but are currently devolved. The following taxes were previously levied by the National Government;

Fishermen	
licenses	
	Boat/ vessel
	identification
	licenses
	Fish trading
	licenses
	Fish
	movement permit

3. Inconsistency and poor coordination in revenue collection has also resulted to loss of revenue collected by the County Government. The County Government revenue officers at the beaches are inconsistent in their duties and are also understaffed with other beaches lacking revenue officers. In many of the beaches, the revenue officers rarely coordinate with the BMUs thus experiencing difficulties while dealing with the traders.
4. It was noted that all the BMUs levy special charges on the activities of the traders at the beach. The levies are sanctioned by the Department of Fisheries to support the roles of the BMUs and are charged uniformly across the county beaches. Such levies include;

- The BMU landing fee, from the fishermen, of 5/= per kg of fish docking at the beach

- Traders only pay –to the BMU- a one off registration fee of Ksh.1000 and an annual fee of Kshs. 4000 for BMU membership

- Emergency docking ships pay kshs.200 to the BMU

b) The Ugandan Traders' Issue

1. The presence of Ugandan traders and or their activities at the beaches was affirmed. The Committee noted that Ugandans actively trade in fish and fish related businesses at the beaches and sometimes operate through agents of Kenyan decent.
2. Some Kenyan traders also export their fish to the Ugandan markets for better prices and ready market.
3. Lack of fish storage and processing facilities at the beaches additionally aggravate the antagonisms by encouraging the fish vendors to dispose of their catch the earliest to the available relatively better price proposers thus giving the Ugandan traders the upper-hand.
4. The committee found out that the fact that all the fish traders at the beach are charged same rate of revenue as indicated herein, the foreign traders (the Ugandan traders) have undue market advantage over their Kenyan counterparts because of reduced operational costs but favorable and ready market for their products in Uganda.
5. The committee noted that no favors and or market exemptions are

2016 SIAYA COUNTY ASSEMBLY DEBATES

granted to the Ugandan traders as alleged.

6. The Committee noticed a unanimous acceptance of the Ugandan traders and their activities at the beaches for the following reasons;

- They offer better fish prices
- They offer alternative and reliable fish markets considering the perishability of the commodity
- They bring with them valuable and fairly priced commodities e.g. cereals, bananas, timber for boat making etc. – especially to the residents of the island beaches

c) County Government services to the beaches

1. There were notable efforts by the county government in opening up the beaches through grading of the access roads especially roads to Wich-lum, Obenge and Kamariga beaches
2. The beaches are however in poor-states of waste disposal and management mechanisms. There are no waste-disposal bins at any of the visited beaches- a situation that might be the same in all the other beaches in the county. Heaps of waste materials are deposited randomly with the rain waters eventually sweeping them into the lake thus making the lake waters

unhealthy for human use. No designated waste-disposal sites at the beaches.

3. The county government initiatives of toilet and fish banda constructions along the beaches are laudable. However, the committee found out that most of these projects stalled after the contractors reportedly failed to deliver and eventually abandoned the projects. Fish bandas and public toilets in Kamariga beach, Kunya beach, Wikwang beach and Madundu beach have stalled.

COMMITTEE RECOMMENDATIONS

On the basis of the findings and other evidence adduced from documentary analysis, this Committee recommends the following;

1. On revenue, this committee notes with a lot of concern the lack of and or delayed legislation in ensuring collection of all the leaking revenue from the fish and fishing activities along the beaches. The County Government cannot proceed with collection of revenues without appropriate legislation on the same. Revenue should be collected on; fish trading and movement permits, fishermen licenses, vessels/ boat identification licenses. This Committee strongly recommends that the executive to fast track required legislations like the aquaculture and fisheries bill to seal up the revenue leakage along the beaches and the aforementioned revenues be included in the 2016/2017FY Finance Bill to

2016 SIAYA COUNTY ASSEMBLY DEBATES

enable the County Government enhance its revenue collection.

Hon. Deputy Speaker, Sir, important to note is that the fish trading license, fish movement permit and the boat identification license has since been included in the Finance Bill 2016/2017FY.

2. Mr. Deputy Speaker, Sir, the importance of automation of revenue cannot be gainsaid. Achieving sustainable revenue growth is a continuous process that requires constant monitoring and corrective measures. The CEC Finance should fast track the implementation of revenue automation and reviews the fish cess fees to help improve and seal the revenue leakage in the County.
3. Mr. Deputy Speaker, Sir, during the field visits there were concerns from the traders of lack of markets for the fish within the County, this has negatively affected the prices to which they sell their fish to other local and regional traders. This Committee recommends the CEC Agriculture to ensure the establishment of refrigeration/cooling equipment at the beaches to enable the fishermen store their fish and be able to negotiate better prices overtime without the products going bad. These cooling facilities shall give the fishermen an upper hand in price determination thus not disposing of their fish at any prevailing prices for fear of going bad.
4. The county government should initiate efforts aimed at acquiring stable and reliable markets for fish and fish products through investing

in and or wooing investors to invest in the fish industry in the county. The Committee noted the existence of already started but stalled projects by the national government such as the stalled fish processing and storage plants at Luanda Kotieno, Usenge, Wich-lum beaches. The Committee recommends the County Government to purchase fishing equipment to operationalize these stalled plants.

5. Mr. Deputy Speaker, Sir, during our fact finding mission on revenue leakage along the beaches the committee noted lack of waste disposal bins, dumping sites and toilets leading to environmental degradation and water pollution. This Committee recommends that the County Government to ensure that all beaches are served with; toilets, waste-disposal bins, waste disposal sites demarcated and effective waste collection mechanisms established.
6. The Committee recommends that the County Government to make a follow up on the stalled fish bandas and public toilet projects along the beaches with a view of prevailing upon the affected contractors to complete the projects

Mr. Deputy Speaker, Sir, that is what we found out and we pray that the House will adopt the Report. Thank you.

Hon. Deputy Speaker: I have not heard the Mover requesting for a Secunder, so I want to believe that the Motion had already been seconded.

Hon. Munda: Yes, it had been seconded.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Deputy Speaker: Ok. Now is time for debate. Yes, Hon. Andiego!

Hon. Andiego: Thank you, Mr. Deputy Speaker. Allow me to take this opportunity to thank the Committee on Finance, Trade and Industry for the hard work and sympathize with them for the dangers they might have experienced during their crossing to Ndeda Island.

Hon. Deputy Speaker: Did the Speaker propose the Question? So it will be procedural that we first propose the question then you can proceed. At this point honorable Members I wish to propose that this House adopts the report of the Committee on Finance, Trade, Industry, Labour and Cooperatives on unfair trade practices and competition by Ugandan traders at selected beaches in Bondo and Rarieda Sub-Counties laid on the Table of the House on Tuesday, 11th October, 2016 at 2.30 p.m. Hon. Andiego, you can proceed!

Hon. Andiego: Thank you, Mr. Deputy Speaker. I was at that point of sympathizing with the Committee as indicated by the mover that the travel to Ndeda Island was rough and they really had a bad experience. I want to tell the Committee that that is what the traders and the fishermen of the Island go through and maybe if you had the same experience. I would have wished to hear how you plan to bring a ferry to make the movement little bit bearable. Hon. Deputy Speaker, before I move much further, allow me to go through the Committee's mandate briefly.

I will just read 1,2,and 3 where no (a) as indicated in this report, is to investigate and inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned

department. Study the programme and policy of the objectives of the departments and the effectiveness of the implementation. Study and review all the legislations referred to it and many others Mr. Deputy Speaker. And when you get deeper into the statement, the following objectives guided the overall inquiry;

1. To establish revenue charges levied on the fishing community and related traders by County Government of Siaya.

2. To authenticate the existence of Ugandan traders at the beaches

3. To ascertain whether Ugandan traders at the beaches pay taxes to the County Government of Siaya.

4. To find out the services offered by the County Government to the fishing community along the beaches.

Mr. Deputy Speaker, these were the key issues that took the Committee out to ascertain if these things are happening. Through the recommendations of the mover, I didn't hear anywhere whether Ugandan traders are legally trading in Kenya. They say that the Ugandan traders offer better prices and I can remember in the year 1978 when I was a very young man, there was trade that was going on between Kenya and Uganda through the Lake of Kahaba, which was stopped by the then President because it was named as 'magendo'. So, when traders of Kenya cry of Uganda traders being in the water where there might be another trade going on which is illegal and then it comes to the fish denying the Kenyans and the Kenya factories from what they call 'theirs'. I want to put it very clearly that about 10 years ago we had more than 12 companies and in fact the Kenyans were buying fish from Uganda and these over 10 companies are dead today.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Each company would employ more than 300 Kenyans, if each company had more than 300 workers and today all of them are dead, we are denying the youth job opportunities. We don't know whether it is political; why Nyanza people are always exposed to unfair trade, we don't know whether it is because of those who are against us. They have become friends with Ugandans to do something that is killing the people of Lake Victoria bordering Kenya. If you look at it, the Lake in Uganda is much bigger than the Lake in Kenya and at times we are denied trading from Uganda, fishing in the Ugandan Lake.

We happily welcome the Ugandans to take our fish in Kenya; don't we see that there is a problem somewhere that we as Siaya County need to work on? It is painful when our fishermen are exposed to unfair trade. At times our fishermen are forced to eat raw fish by Ugandans. We are being arrested daily for us to pay huge amounts of money in terms of revenue while Ugandans come to Kenya and they freely take our fish, they fish in our lake and go back with our fish.

It is our mandate as the Members of this Assembly to make laws and I am wondering from 2013 up to date there is no law. I think it was the work of this Committee to push the Executive to come up with a legislation to help this County. Hon. Andiego may also have his own way of seeing whether you are sleeping or you need to pull up your socks; it's almost the same thing.

Hon. Ndonji: Point of Order.

Hon. Deputy Speaker: You are out of Order! I will not allow you to speak! Hon. Andiego, proceed.

Hon. Andiego: Thank you, Hon. Deputy Speaker, Sir, for protecting me. I

just wanted to make the committee know...

Hon. Deputy Speaker: You don't need any protection. You are very much secured, Hon Andiego.

Hon. Andiego: Thank you, Mr. Deputy Speaker, Sir, I just wanted the Committee to know that one of their mandates is to help and push the Executive to bring us what we need so that this County can move on well. It is us the Hon. Members of this Assembly that are always on regular contact with the people and I believe that we all know what affects our people much better than the Executive who are just seated in the offices. So that is what I meant by asking the Committee to pull up their socks.

Mr. Deputy Speaker, Sir, I am saying that as a Member of this Assembly, I am not in support of this Report and I would have requested the Committee to go to Uganda, whose traders are now taken to be the best buyers of our fish. They should have gone there and known why the Ugandans are being paid better prices than the Kenyans so that we can also get their tactics and whatever good thing that is being done there to help our people so that we can also have better prices.

Mr. Deputy Speaker, Sir, it is my humble request that this Report be taken back and more investigations be done so that we also have better ideas than them, better markets and we can also see into how we can improve on revenue collection.

Revenue is an issue in this County and each and every Member knows that if it goes on the way it is, then we will be denied the allocation that comes from the National Government, if we cannot pull up our socks and come up with revenue money. Fishing industry is one of our best

2016 SIAYA COUNTY ASSEMBLY DEBATES

areas that indeed can help us raise the standard of what income is coming to Counties.

So Mr. Speaker, I go down to reject this Report and asking the Committee to redo it. Thank you.

Hon. Apiyo: Thank you, Mr. Deputy Speaker, Sir, I want to throw my weight behind this Honorable Committee on the Report; Unfair Competition by Ugandan traders at selected beaches especially in Rarieda and Bondo Sub Counties.

Let me start by the findings of the Committee. Areas which the committee covered in regard to revenue collection, I think this is not the first time we are talking about revenue on this Floor. There was a similar Report which was brought before the Hon. House which was talking about the issue of revenue collection.

Revenue collection as per the fish mongers on the boats is something I think we need to look more into it. If you look at our fish mongers, they were kind of playing a game with the revenue collectors. Pick an example of where I come from which is along the beaches. One day I was in Luanda K'Otieno for 6 hours, in the late afternoon at around 3, I saw the way they were behaving with the revenue collectors. We need to do something more if we must talk on how we can collect revenue for the County.

The issue of BNUs, I think was a body which was formed to give us support with the security issue, revenue collection and not to do business like the fishmongers are doing. You look at the Report here, you see that there is registration which is done once it is Kshs.1, 000 then the annual collection to the BMUs is Kshs. 2000 so they concentrate more on what they collect every year.

There are these people; the *Orias* in Luanda K'Otieno. They are coming to fish there and it is the BMU who are colluding with these people. These are the same people who are taking the fish to sell in Uganda so it is a kind of business and BMUs are not helping us with the operations on the beach and even collecting the revenues.

Hon. Deputy Speaker: Hon. Apiyo, are you insinuating that the *Orias* have no right to conduct business along the Beaches?

Hon. Apiyo: To me, Mr. Deputy Temporary Speaker, Sir, they use the speed boats compared to what our people use. They can collect this fish from every point where the BMU members are, so they collude with these people and their target is different if you compare with our own brothers and sisters who do fish business at our beaches.

Hon. Deputy Speaker: I want to believe that the *Orias* have got democratic right to do business and we should have that in mind and those referring to them as *Orias*, are a little discriminatory.

Hon. Apiyo: That is their name; I don't know any other name apart from that unless maybe you have another term.

Hon. Deputy Speaker: Can you proceed.

Hon. Apiyo: Thank you, Mr. Deputy Speaker, Sir, the Ugandan issue is terrible and what Hon. Andiego was saying is something I cannot elaborate more, it is an issue which I think was also debated in the National Assembly, the way the Ugandan people are behaving, look at their behavior at Migingo, these people are terrible. How I wish that this Hon. House, maybe our hands are tied but this was debated in the National Assembly and I think they also came up with a Report.

There was even relocation along the lake but up to now we have not received any proper Report about it, so controlling the Ugandan people is something that I cannot talk more about.

On the recommendations, there is this issue of boat identification; it goes along with revenue collection. We need to identify these boats the way we do to our cars. Why can't we identify these boats and give them numbers? By doing so, we will have a good record on who are at the lake fishing and who are by the shore; we can easily identify them and ease the collection of revenues.

On revenue collection process, my input here is that let us use an example of Nairobi and Kiambu counties. Let us go digital about this. This is also something which was debated here. Let us go digital to safeguard even the revenue collection for our employees who are down here at the beach. The establishment of registration goes together with the price of the commodity, when we establish the registration of these boats we will give ourselves easy time when doing or accounting for what we had projected. This is what will make us to give proper marketing for our fish, it will give our people the mandate when we shall know that which boat was here and who are the fishermen doing the business as we have registered all the boats.

There was also an issue on the recommendation of stalled projects; for example in my area of Luanda K'Otieno there was a fish banda which is well done, it is big we can have the storage facility there but now the handing over from the National Government to County Government has taken us a good 4 years. When we started, that was 2013 when we came in, we went down there and we saw

that we handed over to the National Government which they had said they were handing over the projects to the County Government but to date this thing is still lying there like a white elephant. That is something that the Committee recommended and there were issues on waste management and disposal and to those who come from along the beaches like Hon. Andiego, Hon. Okuku, Mr. Olasi, Hon. Ochieng, Hon. Owii, Hon. Angul and myself.

Hon. Deputy Speaker: Hon. Apiyo, why do think Hon. Olasi doesn't qualify to be an Hon. Member?

(Laughter)

Hon. Apiyo: Mr. Deputy Speaker, Sir, I started by mentioning my colleagues by putting Hon. before their names because that is their title.

Hon. Deputy Speaker: I heard you refer to Mr. Olasi if I am not wrong.

Hon. Apiyo: I think you are wrong.

Hon. Deputy Speaker: The Speaker can never be wrong; can you address your Hon. Colleague in the right way and manner?

Hon. Apiyo: Hon. Olasi is a good friend.

Hon. Deputy Speaker: Thank you, you can now proceed.

Hon. Apiyo: Putting up projects in these beaches will give us a good reputation with our people that we are maintaining cleanliness in our beaches and the waste management there is not to the required standard. The dustbins are less compared to the population along the beaches and we need to do something about these issues. I support the Report, thank you.

Hon. Deputy Speaker: Hon. Ndonji, you have a point of Order?

Hon. Ndonji: Mr. Deputy Speaker, Sir, I am not rising on a point of Order but I wanted you to allow me to move a procedural Motion.

Hon. Deputy Speaker: Before you Move any procedural Motion I wish to allow Hon. Okelo to make his contribution.

Hon. Okelo: Thank you, Mr. Deputy Speaker, Sir, the Hon. Ndonji is a Member of the Committee...

Hon. Deputy Speaker: And of course Hon. Olasi, I can see you smiling from the other corner. Hon. Okelo proceed.

Hon. Okelo: Thank you, Mr. Deputy Speaker, Sir, I will take a very short time on this because one of the points that I would have wished to speak on has already been alluded to by the two previous Members who contributed on this. First, I thank the Committee for work that is quite elaborate and detailed enough. For me two things still stand out, one is that the main reason is that reading from Hon. Ochieng's Statement the main concern is about protection from the competition by the Ugandans. Apparently, that has not come out very clearly both at the findings and the recommendation stage of this Report. I think that is a gap that I think the Chairman should answer when he stands to reply.

When you read the Statement by Hon. Willis it was quite specific that he even quoted section 120 (3a) of the County Government Act, 2012 which requires that there shall be equitable treatment of users of public services with regard to changing of tariffs and levies. Then he goes ahead and talks about encroachment by the Ugandans.

I think really the reason we have a County government in Siaya is because we

can give priority and preference to the people in terms of service delivery. The Committee acknowledges that certain roads have been done and stalls are being built and a few other things using tax payers' money so it is important and prudent upon the County Government to exercise service delivery and protection to the extent that it can give advantage to the local traders.

My other concern is about what you are witnessing today, alluding to the importance of data in our operations and County. I think up to date Siaya County will be hard pressed to tell us how many families are depending on fish, this would be a very good opportunity for...

Hon. Deputy Speaker: Hon. Members, the rate at which Members are leaving the Chamber is now worrying because very soon we will be running short of quorum I kindly urge you to stay around, be patient until we clear the business of the day.

Hon. Okelo: My second and last concern is about how much the County Government of Siaya has invested in data; I know very well that we have a National Bureau of Statistics but it will be important to have at County level a model authority that properly documents issues of data and statistics so that we are able to see that how many families, for instance are dependent and are obtaining their livelihoods on fish as a sub sector.

It would also be important to know the total revenue that comes from fish sub sector in terms of taxes and turnover so that at the end of the day when we do the net impact analysis of our investment across the various sectors and able to see how much at the fish sub sector which is a very serious sector that needs a lot of

investment because of what it generated to this County.

There could be also a lot of talk about cage fish farming and so many other things that is the concept today in the fish industry at which maybe the scope of this Statement didn't go to. So I want to limit myself to those two concerns, the issue of data and the issue of the main gist of what Hon. Ochieng' was asking for about competition and protection from the Ugandans. You are all aware that the Ugandans are our neighbors, however, they have not exercised very good neighborliness.

The issue of Milingo is still fresh in our minds; how they mistreated us and how even the president claimed that the rock belongs to Kenya while the water and fish around there belong to Uganda. So, when your neighbor is not very kind to you already there is no reason for you to be extremely kind to them.

I would wish to see a recommendation that is strict to them on encroachment and involvement of Ugandan traders in terms of raising the levies that charged to them on extreme case probably just making it almost legal for the Ugandan people to come and disturb us here, they also have their Country where they can do their trade. Thank you.

Hon. Deputy Speaker: I will give Hon. Olasi the opportunity to make his contribution.

Hon. Olasi: Thank you so much, Mr. Deputy Speaker, Sir, mine will be very brief. Allow me to remind the Hon. Members that the fact that I came here late doesn't mean that I will remain a Mister. Kindly, Hon. Apiyo, I put it to you officially like any other Hon. Member in the House, Hon. Olasi is one of them.

Hon. Deputy Speaker: Of course that one is not disputed; he had already withdrawn the word Mister. And you will remain Honorable and will always be Honorable. Can you proceed with the debate?

Hon. Olasi: Thank you, I don't agree with the whole Report. Why do I say so? It doesn't make sense in that a trader comes from Uganda and pays more for our fish which is produced at our beaches. This to me means that something somewhere is not adding up. Maybe some of the taxes are not paid because it means it's like paying Kshs 200 from Kisumu to Siaya and again from Luanda the same route but a shorter distance to pay like Kshs 500. I don't believe that our County Government is doing enough to protect the local industries if not the local fishermen.

I believe the Ugandans who are traders from a foreign Country should be taxed more and that will bring fair competition. I also believe that if we can have established fish processing factories around the Lake Victoria where we will have time if not storage facilities to keep our catch and sell at the right time when the market is favorable; but saying that someone is coming from Uganda paying the same amount of money that the locals are paying for fish then we are not fair to our people.

The Ugandans have a trick of using our local traders who buy the fish for them at local rates and transport this fish to Uganda. The reason I don't support this particular document is because the Committee ought to have gone to Uganda and investigated this issue and come up with a substantive Report.

Hon. Andiego put it before this House that we used to have so many local factories but most of them closed because

2016 SIAYA COUNTY ASSEMBLY DEBATES

we cannot afford the fish and not because the fish are not in the lake but they are exported to Uganda. I need to be convinced that there are proper mechanisms that we as the County Government are putting in place to make our markets have competitive grounds compared to our counterparts from Uganda not to afford the prices, thank you.

Hon. Deputy Speaker: Hon. Ndonji, I was giving first priority to Hon. Members who come from along the beaches, so I am not discriminating anyone or any area.

Hon. Ndonji: Mr. Deputy Speaker, Sir, I wanted to Move a procedural Motion on this particular debate and as a matter of fact that this document was given to Members about a week ago...

Hon. Deputy Speaker: Hon. Apiyo and Hon. Okelo, I will throw you out because you are interrupting the business of the House. Hon. Ndonji, proceed!

Hon. Ndonji: Thank you, Mr. Deputy Speaker, Sir, because they were gossiping about me.

(Laughter)

Hon. Ndonji: Mr. Deputy Speaker, Sir, I want you to allow me to Move a Motion: - THAT owing to the fact that Members got this document last week; Firstly, the document is very voluminous, secondly, because a number of Committees were moving outside the County and a number of Members approached me and told me that they had not gone through the document to their satisfaction and therefore it is limiting their contributions towards whatever has been written in this document.

I also wanted to say that as of today, very few Members came with the

document to the House and as such some of them requested that they found it easier to contribute having the document in their hands but I also want to commend the office of the Clerk for availing a few copies as the debate was on going. Just before I call upon...

Hon. Deputy Speaker: Hon. Ndonji, you don't need to have the Report at hand...

Hon. Ndonji: Mr. Deputy Speaker, Sir, that...

Hon. Deputy Speaker: Maybe you can talk about other things but not having the Report at hand, you can proceed!

Hon. Ndonji: Thank you, Mr. Deputy Speaker, Sir; I was only raising a concern that was raised by some Members. It wasn't my concern because I had come with mine and I was going through it even without this document, I had already gone through it and even participated in its production. Just before I call upon a Member to second me, I wanted to say that a gentleman has more polite ways of telling a lady that she is ugly without directly telling her that she is ugly.

One of the ways is by telling the lady or the man that you suffer from looks deficiency and there is a way in which you can treat it probably if you use some cosmetics. So, I just wanted to tell the Hon. Member who used the word ugly that it is better to use a euphemism than telling someone that they are ugly and out of that, I call upon Hon. Angeline...

Hon. Deputy Speaker: Hon. Andiego, what is your point of Order?

Hon. Andiego: Mr. Deputy Speaker, Sir, is it in Order for the Hon. Member who is not the Mover of the Motion to reply when the time has not come?

Hon. Deputy Speaker: Hon.

Andiego, the Member is not replying, he is interjecting on another Motion. Hon.

Ndonji, can you be precise with your Motion so that the Deputy Speaker can capture your Motion clearly? Otherwise, you are beating around the bush and the Deputy Speaker may not get what you are intending to mean.

Hon. Ndonji: Mr. Deputy Speaker, Sir, I was trying to explain because we are different in how we understand things.

(Laughter)

I wanted to request if you could allow Hon. Members to go through the document tonight so that we can continue with the debate tomorrow and I call upon Hon. Angeline Odhiambo to second. Thank you.

Hon. Achieng: I rise to second.

Hon. Deputy Speaker: Hon.

Members, a Member has raised a concern that the document we are discussing is voluminous and as search they request more time to go through it so that maybe they can make contribution later on in our tomorrow's debate and again most of the Members are out, some Committees are out and they would wish also to make a contribution.

This topic being an important one for the County Government of Siaya, I therefore wish to put the question that the House adjourns until tomorrow to debate on the same that we defer debating on this document until tomorrow.

I have proposed the question, so its Members to talk about it and if they agree, we can defer but if you don't agree, we put the question.

(Question put and agreed to)

MOTION

ADJOURNMENT

Hon. Deputy Speaker:

Hon. Members, there being no other business, the House now adjourns until tomorrow at 9.30 a.m.

The House rose at 4.07 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 19TH OCTOBER, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

(The Deputy Speaker and the Clerk-at-the-Table consulted)

Hon. Deputy Speaker: Clerk, do we have Quorum?

(The Clerk-at-the-Table confirmed the lack of Quorum)

Hon. Deputy Speaker: Can the Sergeant-at-arms ring the Quorum Bell for 10minutes?

(The Quorum Bell was rung)

Hon. Deputy Speaker: Can we proceed?

STATEMENTS

Hon. Olasi: Thank you, Mr. Deputy Speaker, Sir, on behalf of Hon. Joanes Andiego, Member of County Assembly, Central Sakwa Ward.

Pursuant to Standing Order 42 (2), I rise to seek a Statement from the Chairperson of Lands, Physical planning Surveying and Housing Committee on implementation of Kshs 1,000,000 for 2014/2015 budget allocation meant for land adjudication for Oyamo and Ndeda Islands.

In his response, the chairperson should address the following issues;
How much of this allocation has used and for what purposes in the process of the said adjudication.

What steps are remaining for the process to be completed.
The financial implications of the remaining processes.

Hon. Deputy Speaker: Thank you, we commit the said Statement to the Committee on Lands, Physical planning Surveying and Housing and we need a response by Tuesday the coming week.

MOTION

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, this is the only business we have this afternoon and this reminds us that we need to generate activities for the House.

You can see that we only had one business which we cannot really discuss today. I will request Hon. Members to look for Motions that we can discuss next week and there being no other business the House adjourns until Tuesday, 25th October, 2016 at 8.30 a.m.

The House rose at 3.43 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 25TH OCTOBER, 2016

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

(The Speaker (Hon. Okode) in the Chair)

PRAYER

**COMMUNICATION FROM THE
CHAIR**

PENDING COMMITTEE REPORTS

Hon. Speaker: Hon. Members, last time, we promised to give a list of Committees which transact business but do not furnish this House with their Reports. I have the list with me but I want to consider it as a draft because I have not got the signature of the Liaison Committee and there could be instances where perhaps Committees are disputing. But what I have from the clerk of the Liaison Committee is that;

1. The Governance and Administration Committee has nine pending Reports.

2. The Committee on Lands, Housing, Physical Planning and Surveying has five pending Reports.

3. The Committee on Budget and Appropriations has five pending Reports.

The Committee on Finance, Trade, Industry, Labour, Cooperatives has six pending Reports.

4. The Committee Public Works, Roads, Transport and Communication has two pending Reports.

5. The Committee on Water and Irrigation has three pending Reports.

6. The Committee on Public Accounts and Investments has two pending Reports.

7. The Committee on Agriculture, Livestock and Fisheries has two pending Reports.

8. The Committee on Education, Youth affairs, Gender and Social Services has one pending Report.

9. The Joint Committee on Water, Tourism and Delegated Legislation has one pending Report.

10. The Committee on Health Services has one pending Report.

11. The Joint Committee on Agriculture, Governance and Administration and Delegated Legislation has one pending Report.

This list is still a draft and I do not want to say this with finality, but what we are saying is that if your Committee has not submitted its Reports, you need to be reminded that we will be having a short break for about one week or ten days and if by then you will not have submitted your Reports, then we will discuss extensively as a House on how to deal with matters of this nature.

PROCESSING OF STATEMENTS

The other matter is how we process our Statements. I have been notified by the Office of the Clerk that there needs to be a little departure from how we have been processing our Statements. I made exclusion in our last meeting where a Statement was sought and was directed to the Education Committee. I directed that the processing of that Statement on mock exams should not follow the new

2016 SIAYA COUNTY ASSEMBLY DEBATES

procedure. I want to reiterate here that we will only embark on using the new procedure once we have adequate time to communicate this to all Members when we come back and how we want to move forward.

I therefore expected that even the Statements that were requested for last time would follow our previous procedure. But where there is departure, I will understand that during transition we have such challenges.

Therefore, any Statement that will be asked from when we come back, we will want to use the new procedure that is acceptable and used at the National Assembly. But for now, what we already have, bring them as we have been doing; what is asked now we can still handle them the way we have been doing. But we will understand where there are silent departures.

ESTABLISHMENT OF THE SIAYA COUNTY
BUDGET AND ECONOMIC FORUM

Hon. Members, we have received communication from the Governor and the letter is signed by the County Secretary, Dave Anyona Kanundu. In their communication, they are letting us know that they have since established the Siaya County Budget and Economic Forum. They have listed the members of that forum here and I direct the Secretariat to produce copies and circulate to you. All I would want to do is to refer you to Section 137 of the PFM Act (Revised Edition), 2015 on the establishment of County Budget and Economic Forum for county budget consultation process.

137. (1) As soon as practicable after the commencement of this Act, a county government shall establish

a forum to be known as the County Budget and Economic Forum.

(2) The County Budget and Economic Forum shall consist of—

(a) The Governor of the county who shall be the chairperson;

(b) Other members of the county executive committee;

(c) A number of representatives, not being county public officers, equal to the number of executive committee members appointed by the Governor from persons nominated by organisations representing professionals, business, labour issues, women, persons with disabilities, the elderly and faith based groups at the county level.

(3) The purpose of the Forum is to provide a means for consultation by the county government on—

(a) Preparation of county plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the county; and

(b) Matters relating to budgeting, the economy and financial management at the county level.

(4) In addition to the above, consultations shall be in accordance with the consultation process provided in the law relating to county governments.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Members, you realise that the law doesn't expressly call upon the Assembly to approve those names and I therefore just want to read them to you:-

- | | |
|--|--|
| 1. H.E Cornel Rasanga
- The Governor
Chairman | 15. Mr. Julius Onyango Oduol
- Professionals |
| 2. H.E Wilson Ouma Onyango
- The Deputy Governor | 16. Mrs. Grace Mungla
- Maendeleo ya Wanawake |
| 3. Hon. Cleophas Ombogo -
County Executive Committee
Member for Finance | 17. Prof. Jacqueline Oduol
- Alego Usonga |
| 4. Hon. Chero O. Omondi -
County Executive Committee
Member for Public Works | 18. Mrs. Mary Omondi
- Ugenya Sub-County |
| 5. Hon. George Okello - County
Executive Committee Member
for Public Service | 19. Dr. Orodhi
- Ugunja Sub-County |
| 6. Hon. Charles Olang'o Onudi -
County Executive Committee
Member for Health | 20. Mr. Enos Oyaya
- Bondo Sub-County |
| 7. Hon. Sarah Ondego -
County Executive Committee
Member for Water | 21. Mr. Paul Njiri
- Persons with Disability |
| 8. Hon. Gondi Olum -
County Executive Committee
Member for Trade | 22. George, H. Odenyo
- Gem sub county |
| 9. Hon. Ezekiel Abang' -
County Executive Committee
Member for Lands | |
| 10. Hon. Bishop Charles Akello -
County Executive Committee
Member for Tourism | |
| 11. Hon. Pamela, A. Akello -
County Executive Committee
Member for Education | |
| 12. Hon. Philgona Ooko -
County Executive Committee
Member for Agriculture | |
| 13. Rev. Dr. Joseph O. Wasonga
- Faith Based | |
| 14. Mr. Yahuma Okoko
- Elderly | |

VISIT BY THE EAST AFRICAN LEGISLATIVE
ASSEMBLY

There is another communication from the Office of the Governor that there would be a visit by the East African Legislative Assembly. The East African Legislative Assembly- Kenya Charter will meet the Siaya County Government, National Government and other stakeholders at the Siaya Institute of Technology on the 27th of October, 2016 from 10:30 am. So, we are all invited.

Thank you. Next Order!

STATEMENTS

Hon. Speaker: I have a request from the Chairperson of the Welfare Committee that he wanted to make a communication and then we will have a Statement from Hon. Elisha Okuku.

Hon. Andiego: Thank you very much, Mr. Speaker. I just wanted to remind this Hon. House as the Chair of Welfare Committee that one of our colleagues, Hon. Omollo K'owii is unwell and currently admitted at Aga Khan Hospital, Nairobi. Hon. Members, I kindly request

2016 SIAYA COUNTY ASSEMBLY DEBATES

that we go on our knees and pray for Hon. K'owii. You can also visit him at the hospital. This is the time to assist each other and if you can also chip in financially, then that will be good.

Secondly, you know that we have been making our constitution which is supposed to be passed by this Hon. House. The process is on and we are just panel-beating it. In that constitution, we have captured well what should be done when one of us is sick as Hon. Omollo K'owii is. Once the document is ready, we will bring it before this House. Thank you, Mr. Speaker, Sir.

Hon. Oriaro: Thank you, Mr. Speaker, Sir. Sometime back, I had a Statement request that was committed to the Chair of Lands Committee spelling out the need to make official the various users of a parcel of land at Kochien where the Catholic Church of Boro is, the administration headquarters of DEOs, a nursery school and the Kochien community health Centre.

Hon. Speaker: The Chair of the Lands Committee or any member around?

Hon. Apiyo: Mr. Speaker, Sir, on behalf of the Chair of the Committee, I would like to confirm that we met in the morning and sent a letter to the Executive requesting them to appear before us. We also attached the Statement request in that letter because we needed some facts about the issue. So, something is being done and soon a Report on the same will be presented to this House.

Hon. Speaker: So, as we had said, this time round we want to be firm on issues pertaining reports so that the whole House is not blamed for weaknesses of individual Committees. When we come back we will dispense off with all these within the Committees and then we will

resolve, even if it will means coming here to do a procedural Motion specifying how long we will take with those Reports and what action we will take. Yes, Hon. Apiyo.

Hon. Apiyo: Sorry, Mr. Speaker, Sir. I am just from the Clerk's Office and I wanted to come to your Office because we have visitors on Friday. They are from the Senate and they will be meeting the Assembly Committee on Roads, Public Works and Infrastructure. I just wanted to inform Members of the Committee that after this afternoon's sitting; we can meet and deliberate on some issues highlighted by Members from the Senate. Thank you.

Hon. Speaker: That's in order. Any other Member who will be free on that day you can be friends of the Committee. I advise that the Office of the Clerk makes necessary arrangements so that we do not ashame ourselves when we have visitors. Yes, Hon. Elisha Okuku.

Hon. Okuku: Thank you, Mr. Speaker, Sir. Pursuant to Standing Order 41(2), I rise to seek a Statement from the Chairperson of Public Administration and Governance Committee on the on-going recruitment by the Siaya County Public Service Board and other pertinent issues on the operations of the Board.

In the Statement, the Chairperson should respond to the following concerns:-

1. Were the just concluded interviews done on 18th and 19th October, 2016 for the positions of administration officers, accountants, ICT officers, communication officers amongst others, as posted on the County Public Service Board website by the County Public Service Board, done on delegation pursuant to Section 86 of the County Government

2016 SIAYA COUNTY ASSEMBLY DEBATES

Act, 2012 or was it done by the full Board? If it was done on delegation, are there documentary evidence supporting the same? If the full Board was involved, is there an authentic proof?

2. Does the Siaya County Public Service Board have a board charter? If not, what has been guiding its operations and delegation of members' singular and joint responsibilities since its establishment?
3. Which officer of the Board is officially mandated to sign the Board's official correspondences?

Thank you, Mr. Speaker, Sir. I rest my case as I wait for response from the Chairperson of the Governance and Administration Committee.

Hon. Speaker: Do we have the Chair or the vice Chair of that Committee? I wanted to find out when they will give us this response so that we note down. I was just called today and informed that the Budget Committee is meeting in Kisumu and he is a member of that Committee. Is the vice Chair around? He is also not in. So, any member of that Committee, when do you think you can give us this response?

Hon. Munda: Mr. Speaker, Sir, I am a member of that Committee and I will communicate the same to the Committee and I hope that in two weeks' time the House will have the response.

Hon. Speaker: It would be important that you move with speed because if there is any illegality in the ongoing process then we will be doing a disservice to our people. All the same, do your best to bring the response as soon as

possible. In your engagement you need to tell them that we need those issues addressed before they even issue out the letters because if there is an illegality, you would rather delay than invalidate when our people have gotten appointment letters. Yes, Hon. Walter Okello.

Hon. Okello: Thank you, Mr. Speaker, Sir. I rise on behalf of the Chairperson of the Education Committee. The feedback that we have is in the format that you have just talked about now and the earlier communication we had as a Committee was that we present it in that format. So, do we proceed with what we have or how do we go about it? Kindly guide us.

Hon. Speaker: Hon. Members, that is a question that is procedurally before the Chair on whether we proceed with the new procedure or the old order. You will agree with me that Siaya people want to know the pronouncement of this Assembly on. When it was raised, this House was still using our old procedure where our people are expected to know what Assembly's position is on the matter and I am informed that you were guided by the Clerks of your Committees that you just get a written response.

I cannot delay this communication any further; the people want to hear the response. I therefore advise that you read the statement. I will open the Floor for Members to give their views and then you will pick notes from there. If you find something that you need to investigate further and report to this Assembly with recommendations moving forward, then this is the time you will pick it but the Assembly must listen to this Report today because the people want to hear it.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Okello: Thank you, Mr. Speaker, Sir, for that guidance, I will just read the response as it is from the CEC Member:

Reference is titled, *request for a written response on the alleged use of funds to sponsor Siaya County Primary Schools Mock Examinations*. This is in reference to your letter dated 13th October, 2016; vide reference number SC.ASS/CORRES/C.EXC 16 VOL III – (13).

1. Clarify reports from social media and mainstream media houses appearing on 12th October, 2016, that Siaya County Government allegedly spent an approximate amount of Kshs. 1.7 million to sponsor Mock Examinations in Primary Schools in Siaya County;

I wish to confirm that I am aware of Reports from the media appearing on 12th October, 2016, and subsequently responses from the CEC Member for Education, Youth affairs, Gender and Social Services and H. E the Governor of Siaya. The CECM was captured as having said that the County supported the Mock Examinations by meeting the budget and that using H.E the Governor's portrait was to familiarize the students with the current dispensation of the two levels of Government. This was reported out of context as the County meant H.E the Governor. Furthermore, H. E the Governor while addressing a press conference specifically said that he provided for the funds from his salary and contributions from friends, hence the use of the term County.

It is therefore erroneous to impute that funds used were from the local treasury's budget as approved by the

county Assembly. Kindly refer to and confirm with the budget. Enclosed herein is H. E the Governor's press statement.

2. The second was whether this alleged expenditure was budgeted for;

The response being the County Government of Siaya did not spend the alleged amount. I therefore wish to reiterate that the department complies with the budget as approved by the Assembly. Kindly refer and confirm from 2016/17 Financial year budget.

3. Whether there was violation of provisions of the Fourth Schedule of the Constitution of Kenya, 2010.

The response being, the Fourth Scheduled of the Constitution addresses functions of National and County Governments respectively. The mandate of the County Government is to manage the Early Childhood Education whilst Primary education is a National Government function and therefore the County Government has no role in it. The department did not play any role in the sponsoring of the Mock Papers and so there cannot be any violation of the Constitution on the part of the Department especially in view of the fact that the mock papers were solely a personal matter supported by the Governor in his personal capacity and cannot be attributed to the Department of Education or any other Department in the county.

4. Whether the alleged printing of the Governor's portrait on the said examination papers violated any law;

It is the considered view of the department that because the entire transaction was largely a personal affair, it wouldn't be in order to proceed and render opinion on whether or not it is illegal to

2016 SIAYA COUNTY ASSEMBLY DEBATES

have an individual's portrait in an examination paper.

5. Whether action should not be taken against the CEC member of Education, Youth Affairs, Gender and Social Services, under section 40 of the County Government Act, if it is found that there was gross violation of the Constitution;

Section 40 of the county Government Act provides for the impeachment of a CEC in cases of gross violation of the Constitution. It is, however, imperative to state that the financial support was given in good faith having been requested severally by the actors (teachers) who may have considered the test to be useful in confidence building and familiarization with current affairs.

It is proper to handle matters that fall within the ambit of the department, as an individual action should not have consequences on an Executive Member of the County.

In conclusion, the County Government sympathizes with the National Government officers against whom disciplinary action has been preferred, and the pupils who were to benefit from the examination. We wish all the candidates success.

The letter was signed by Dr. George Jalang'o Midiwo, Chief Officer, Education, Youth Affairs, Gender and Social Services.

Mr. Speaker, Sir; that is the response that the Committee received from the Chief Officers of that particular Department. Attached to that letter is a brief memo from the legal department addressed to the CECM of that department. I will read it;

SUBJECT: SIAYA COUNTY
MOCK EXAMINATIONS

The above matter regards questions 1, 2 and 3. The Governor has already clarified to the media that the amounts spent in printing the mock examinations were partly from his salary and partly from contributions and friends. It was therefore a personal matter hence cannot be attributed to the Department of Education, or any other in the County.

The Fourth Schedule addresses the functions of the National and County Governments respectively. Primary education is a function of the National Government and therefore the County Government has no role in it. The department did not play any role in the sponsoring of Mock Papers and therefore there cannot be any violation of the Constitution on the part of the department especially in view of the fact that the Mock Papers were solely a personal matter supported by the Governor in his personal capacity.

Because the entire transaction was purely a personal affair, it wouldn't be in order for the Department of Education to proceed and render an opinion on whether or not it is illegal to have an individual's portrait in an exam paper.

It is therefore preferable for the Education Department to discuss matters that are purely official and which fall within the ambit of the department. The matter at hand does not fall within the mandate of the CECM in charge of education.

It was signed by, Mr. Leonard Okanda, Legal Advisor, Siaya County.

Mr. Speaker, Sir, also attached is an extract from Daily Nation on Monday, October 17th, 2016, where the Governor is quoted as having spent Kshs. 1.7 million to sponsor the exams.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Finally, attached is a letter written by Siaya County Course Panel Committee, dated 20th, June, 2016 titled;

**REQUEST FOR 2016 STD 8
COUNTY MOCK SPONSORSHIP**

I wish to thank you sincerely for the initiative you have been asking to sponsor the above mock. This clearly demonstrates your passion for our candidates and our parents at large. I therefore requested the same this year 2016. The exam program starts in July 2016. Thank you in advance.

The letter was signed by, Francis Owino Oduma, Secretary, Siaya County Course Panel.

Mr. Speaker, Sir, the very last attachment which is relevant, and I believe all the Members have this is a letter written by the Siaya County Course Panel talking about the Mock sponsored and about the financing.

On the last page is about exam management, it talks about the printer PILONA ENTERPRISES that printed all the exam papers to all candidates. The exam papers were done at school based levels. Monitoring and management were done at school but marking could not be done due to lack of funds to facilitate invigilation, marking and results compilation. We owe the printer a total of Kshs. 667,600 for printing and transportation of papers to all schools in the County.

In conclusion, we request that the 2015 balance be paid, 2016 STD 8 County mock also be sponsored to gauge our candidates for the 2016 KCPE. Long live our Governor and a second term 2017 for the realization of the vision in Siaya County.

Again this is signed by Francis Owino Oduma of Siaya County Course panel.

Basically that is the response that we have. The very last attachment is a letter that was written from our own Assembly to the County Government of Siaya requesting for a written response which they have done and which I have read. That is our feedback, thank you.

Hon. Speaker: Hon. Members, you can react to that. If you seek more clarification or it is not satisfactory, you have the chance to guide the Committee in case they want to do further investigations. If they are satisfied all the same based on those arguments you can even bring Motions in future.

Hon. Oriaro: Thank you, Mr. Speaker, Sir, my initial observation is that man is meant for the law and not the law to man, especially when you would be going by the spirit of our laws if not necessarily the letter. What comes out plainly is the nexus in so far as the delivery of the democratic goals between the National Government and the County Government is concerned.

The County Government has come out very clearly here that their duty goes not beyond ECDE. A question shall arise in future, and mine is the spirit of the laws which we have, be it the Constitution or the Statutes, that is, is bursary allocation a duty and function of the County Government?

We are all about nurturing the human resource, if it is true then the issue of bursary is very valid. If therefore, we would say the issue of Mocks is not valid then it would become arguable if the issue of bursary is also very valid. So, to me by the very design of the statement, mine would be all about a vote of confidence in

2016 SIAYA COUNTY ASSEMBLY DEBATES

the whole idea if any, of the County Government sponsoring Mocks, though we learn that according to this response, it's not valid. For me it is valid because we cannot have the best of our own from ECDE, then we abandon them midway, then we expect at the end of the tunnel, they come back and give buttress to service delivery.

The last page of the response concerns me, the letter written by the Chief Officer Finance and Planning and I challenge the Committee to be doing research because what is expected to be consumed by the House is not necessarily a response. They need to do research, they need to consult. In 2015/2016, 2016/ 2017 if truly this is the position of the Treasury, in Central Alego there is an allocation in the 16/17 for CATs or Mock term 1, 2 and 3. That is a budgetary allocation.

Hon. Minami: Point Of Order!

Hon. Speaker: Yes, Hon. Minami.

Hon. Minami: Is the Hon.

Member in order to try to insinuate that the Committee did not do research on the response when in your directive you have said that we only give a direct response from the respondents who are now the department of the Executive. Whatever has been brought here is not work of the committee per se, but just a response that was given to the questions that were asked.

Hon. Speaker: I agree with Hon. Booker. The matter before us is just verbatim reporting. You could only advise the Committee that in their future interrogations either of the same matter or of a different matter, they refer to that letter, but it's not that they never did research. Could you proceed.

Hon. Oriaro: Implicit! Mr. Speaker, Sir. So in doing their research they should consider programs as

enshrined in the current budget policy document vis a vis the budget law. In 16/17 in Central Alego there is an allocation for the same exercise on Central Alego Ward so this letter tends to inform the public that the County Government has no such consideration. That would be a grave anomaly and it would be my wish that it be corrected because it simply tells us that even the Finance, Economic Planning and vision 2030 are not conversant with that which is at their desk for execution. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Yes, Hon. Elisha Okuku.

Hon. Okuku: Thank you, Mr. Speaker, Sir, the answers that have been provided by the Committee of Education is of great importance to the people of Siaya and Kenya at large. There is a big disparity on how the Executive is handling the matter and there is a very open mockery on their responses that we can just not agree that we are satisfied as Assembly, as the watchdog and as the people who are doing oversight on behalf of the people of Siaya.

When you look at the attachment, what they wrote on the 6th of February, 2016 and I think that it is attached in this response to the Speaker, you find that it is signed by the Siaya County Course Panel and they address it and say that the County Government issued it, not H. E Governor Cornel Rasanga issued and of course he is not the County Government. According to the response, the Governor is saying that he issued money from his pocket and the Course Panel is accepting that the County Government issued only Kshs. 1.5 million to jump start the program. It means that this thing was being done by the County Government money, not money from the Governor's pocket.

I can agree to some extent that maybe the Governor used his money but my concerns are very clear. I want to pose a question as a stupid person that if he used his money, how then was the Siaya County Government logo used in that paper? The County Government logo is an institutional logo. It is not a personal logo, even by the time you sat on that Chair as a Governor on an acting capacity which gives me room constitutionally to address you as the H. E the former acting Governor of Siaya. Mr. Speaker, Sir, you used the logo then. It is not a personal entity that we can agree easily that the money was from his Pocket. Why did they use the County Government logo in the Papers?

I want to agree stupidly enough that definitely he used his money but history speaks and repeats itself. There is nowhere that you can find that the Governor is used to using his money even in the community's activities. If he used his money which I don't want to dispute, how then was the CECM Education quick to respond to queries and she is being paid by the public money because she is not a personal assistant to the Governor? She serves and works for the community of Siaya and how come that she responded in the queries by the media yet it was a personal and private arrangement.

I want to disagree with this Report and I want to say that we need a forensic audit, I call upon the Assembly as the people who are responsible and are charged to play an oversight role on behalf of the people of Siaya, we need a forensic audit of the same. We urge the committee that they should go back and find details of what transpired on this important matter.

I want to agree that to some extent we do give bursaries due to pressure but

we say openly that due to pressure it is not within our mandate but we do give as County Government. We don't hide that that money is our personal salary that we give as bursaries then if we do give bursaries and it is an oversight and constitutional then two wrongs will never make a right. We cannot go wrong because somebody started by doing a wrong thing. Therefore, I want to call upon this House to stand up as people who are charged with the responsibility and being paid to play an oversight role on behalf of Siaya community to demand more.

We know the spirit was good; examination is not a bad thing but is it constitutional? Is it important for me if I sponsor an exam to put my portrait in a paper? This is a shame! This is uncalled for! It is unprofessional! This tells the world at large that we are behind.

I am surrounded by 3 lakes, where I represent Yimbo East is surrounded by Lake Victoria which is a fresh water lake, Lake Sare which is also a fresh water lake and Lake Kanyaboli which is also a fresh water lake and in all these 3 lakes, my people are fishermen. They do say that the fish decays from the head and in simple terms it means that if the Governor decays today then the whole Siaya decays and we cannot allow this Governor to rot and to put us in a situation where the Siaya public rots.

I dispute this, I disagree in totality, I want to request this House to do more forensic audit. Let the Committee bring a substantive Report that can convince anybody even a layman like Elisha Omondi Okuku who represents Yimbo East to the letter. Thank you, Mr. Speaker, Sir, I rest my case.

Hon. Speaker: There are some points of clarification that the Committee

2016 SIAYA COUNTY ASSEMBLY DEBATES

will dig into and delve further on this matter.

Hon. Minami: Thank you, Mr. Speaker, Sir, for giving me the opportunity to speak on this statement that was raised by Hon. Okuku.

Mr. Speaker, Sir, I want to say that sponsoring examinations is a good thing especially in building the confidence of our pupils who are about to do or sit for their final examinations. In the response we are told that the issue was personal and the department was not involved, which I personally accept. But my worry is that if indeed this exam was personal as indicated by the first answer, then why did the CEO continue to answer other questions when the first answer invalidated the others?

We have a situation here where by the CEO is dismissing his own CECM and we are left wondering who is in charge of this office between the CEO and the CECM. As an Assembly we might want to refuse to interrogate this answer because of great influence and I know some of us here can't speak about these things but the truth of the matter is that there is a problem somewhere especially in this response. What this response means now is that the CECM for education has violated some ethics which is enshrined in the Constitution of Kenya on how a public officer is to behave in public and in private.

If indeed it's true that the County Government never allocated even a single cent which is because it's not even in the budget, why then was the CECM quick to give a response to the whole Country that the Siaya County allocated Kshs 1.7 million? As an Assembly we must do something and action must be taken if we are confirming that this really happened. We have a letter here which has been

highlighted by Hon. Oriaro written by the director of Ministry of Finance and planning about the exams and as highlighted, it's evident that in the budget of Central Alego, allocation of mock exams was made. In the FY 2015/2016 Central Gem Ward allocated Kshs. 500,000 for sponsoring of mock exams while this is the department that is charged with the management of the budget and it is the same department denying such amount has ever been allocated.

I want to say that from this report I can see that the two County officers culpable of lying to the public are the CECM education and the CO Finance, because if you look at the last budget for the FY 2015/2016 you find allocation for Mock exams in West Gem. We will have to accept it the way it is because we have not had the benefit of interrogating the authors of this Report. Therefore, we can neither dispute nor reject it as it stands now. I want to say that even me as the MCA for East Gem I have sponsored exams in Primary schools as well as Secondary schools which is not a bad thing for a County official to do. But the question that Hon. Elisha asked will suffice that why would Booker put his portrait or the County logo if indeed he used his personal money? This is a question that must be answered.

Why would the Course panel; I don't know for which institution because they have just said Course panel without saying from where. The receipt of funds from the County Government is not from the National Government and it is evident that even the Governor while addressing teachers from Rarieda on Saturday in his home on that same week acknowledged that he used part of the money allocated in his office for entertainment to sponsor

exams. It will be fool- hardy for someone responding to only give us a paper cutting information on Monday while refusing to give us the one that the Governor told the teachers from Rarieda when he had a delegation which said that part of the money was from his pocket and the other from his office entertainment kitty. I want to encourage Members who may have never sponsored exams in their Wards to do so as early as January next year because the ministry of education issued a directive that mock exams should not be done in third terms but schools can continue having internal exams. I believe as a department whether County or National we should always be aware of National directives that supersede County directives.

I want to say that as per the anxiety of the people and as has been said by my fellow colleagues, it's true that Siaya County has been doing things that are out of its mandate but they are still beneficial to the people of Siaya. A good example will be; if you go to the major centers you will find girls from different schools from this County being given sanitary towels, underpants and all manner of things which the County Government has purchased to enable them to be in school. These are things that I believe were budgeted for and last year the budget for FY 2014/2015 we were told and I believe it was in the budget that the County Government of Siaya distributed almost 4,000 solar lanterns to school going children in this County, isn't it?

Those are the things which we as a people appreciate very much, so to me the truth of the matter is that this exam was sponsored by the County. But given that it was not budgeted for, people have to run away from it. Let us look at it as a County

and the benefits it has for our children and not only concentrate on the negative side which is the portrait of the Governor being on the paper which is still where the money came from. What I would advise is that let the County Government be bold enough because all these activities are geared towards improving and supporting the lives of our children. Running away from the issue as we can see in the Report is the hypocrisy of the highest order. What is the problem? We have seen Governors putting their portraits on vehicles, for instance, take Murang'a where the Governor has a vehicle with his poster going around all over the town as well as the Country and everybody has seen it.

Exams are done all over the Country but I think the issue of denying a fact the way it is being done here is what is disheartening. I want to say that I accept this Report the way it is and call upon my colleagues to support. Thank you.

(Laughter and Loud Consultations)

Hon. Speaker: Members stand guided that you are not getting a Report you are just seeking clarifications for the indulgence of the Committee. Yes!

Hon. Gare: Thank you, Mr. Speaker, Sir. Allow me to say that the Report that has just been read actually the response from the CO;

1. I want to say that the intention of the Governor to sponsor mock exams for the pupils in the County was not wrong but very correct because for sure our pupils need to compete with other pupils from other Counties. That was a very good move and I want to give the Governor a part on his back.

2016 SIAYA COUNTY ASSEMBLY DEBATES

This issue was just politicised because it's not only Siaya that has been sponsoring exams but also other Counties. However, I have an issue that as much as the Governor wanted to improve the academic standards of our students, something is wrong and I want to seek your indulgence that the response we are getting is not giving us the right information that we wanted and I want to request that we give the Committee back the Report to do investigations and give us right answers.

2. The issue underlying here is that this people are contradicting each other, the CO is saying a different things and he is the accounting officer. It is clear and we have seen the CEC coming to defend the Governor not on her capacity as neither the personal adviser nor an activist but as CEC of Siaya County in charge of education. What Members as well as public want to know is whether if the money used was public money which even though it has been clearly said here that it was not. So there is need for further investigations because some people have come up with contradicting statement which is not really helping the situation yet the Governor confirmed that he actually used his money. Can we give the Report back to the Committee to dig further and come up with right answers so that even the

public can put this matter to rest?

The idea of the Governor was not bad because he just wanted to improve the education standards of our pupils and we can't deny that. But the issue here is that we as the body mandated with oversight authority cannot just sit and let things get out of hand without finding facts when both the CO and CECM are not reading from the same script. We know that the money was not budgeted for but here comes a situation that MCAM say that they had budgetary for exams. Thank you.

Hon. Speaker: Hon. Pamela Ngunjiri!

Hon. Ngunjiri: Thank you, Mr. Speaker, Sir. Indeed as my colleagues have said, this was a very noble decision made by our Governor to help pupils improve on their reports and if something is good then it should not be put down by trivial issues in my opinion. We are now insisting here that the only bad part of this whole exam is having the Governor's portrait on the papers and if that is so then let's say that next time when the Governor wants to do this good work because it's coming from his pocket let him try and avoid having his picture on the papers.

We do not also need the Government logo even though according to me I do not have an issue with the logo being there because the Government itself can ask for donations to support the County. Therefore, if this was coming through the Governor as donation to the County then I don't see why we are having a problem with it and I think this matter has just been politicized too much just as the Whip said such that we are even confused to come up with objective answers.

If the first issue was about the people of Siaya wanting to know whether if the Kshs 1.7 million was coming from the budgetary of Ministry of education and it has been confirmed that it was not, rather it was from the Governor's pocket together with the help of his friends. What is wrong with the Governor helping the County? Again the CECM education is being vindicated here for having come out to explain how this happened, would it be worse if he just decided to be mum because matters of education fall under his docket? To me I think it was right and fair for the CECM and CO to come out and talk about the issue as it was. It was their responsibility to come out and explain to the people what really transpired and I think there is no harm in that.

What stands out here is that if the Governor did not use his money then it's obvious that it either came from the Education budget or any other department within Siaya County. If it so then we need to be told and in any case we have the budget which we can go back to and follow if the money was budgeted for and whether it was used or not. What is wrong with receiving donations from the Government? If in any case no money has been spent as it is stated here, we should be grateful. Many a times even in the past I keep saying that our people make so much noise about donation from other areas to our forces, in other parts of Kenya even if a chicken comes with a pencil in its beak wanting to give for school work it is received with gratitude.

The truth has been said now, we asked questions in the statement they have been answered and I don't know why we are still digging in further. What more information do we need? Let's not

politicize this matter because all our questions have been answered and there is nothing glaring. If nothing is coming out wrong then we should be satisfied with the answers because we have big issues to deal with. Thank you.

Hon. Speaker: Hon. Apiyo, Member for South Gem!

Hon. Apiyo: Thank you, Mr. Speaker, Sir. First, as colleagues have said, giving pupils mock exams to do is not a crime. The truth is as laid by the Ministry of Education, how I wish most of our teachers were around here and exams should be done in second term and that's the truth in this city. First term let's give them time and the teachers to teach and I think Hon. Lonah can confirm from the ministry of education, then second term we can test them. Third term should be left for them to revise because giving those exams in third term can even demoralize the pupils. The results can be an indicator that they may not perform well in their forth coming exams, so giving them exams in third term was wrong.

It is true we are trying to politicise the issue and why? Because of the portrait and that is why all the politics is coming in. I want to call upon all Hon. Members concurring with the Chief Whip that they should take back the Report and investigate thoroughly. First, they need to call the adviser of the Governor. I don't see where the Governor went wrong because it is on this same Floor that we passed and adopted the adviser of the Governor, where was he when this was happening? Secondly, I have some facts about this examination money and let us not cheat ourselves before this Honorable House. Governor did not use any money from his pocket because even as we speak now the printer has not even been paid

2016 SIAYA COUNTY ASSEMBLY DEBATES

fully and I can confirm that. If you used your money, then pay. Why am I saying so? It is in this same honorable House that we discussed issues that there were some projects which were not budgeted for but were done. Am I right? The same Honorable House and this is one of them.

One example, I have a road called Gudwa- Ndigwa, I even told the engineers that that road should be done, there is no money, I never budgeted for it, it is me who came back and put some facts, they are going to do it! So, when they are talking of monies, I know and trust my word, the Committee should go back and investigate this issue properly and give us a good report because what they are trying to bring up here, they are just pretending here, the Committee Members were given some Kshs. 200, from reliable sources

(Interruptions)

I can give the names of those who received the monies!

Hon. Speaker: Order, Hon. Members.

Hon. Apiyo: Can I go on, Mr. Speaker?

Hon. Speaker: Take your seat first!

(Laughter)

Hon. Speaker: These are very serious allegations but again I am restraining myself from letting Members exercise their rights on the Floor. But it is very unfortunate, you will share with me next time, just proceed!

Hon. Apiyo: Thank you, Mr. Speaker. Because of confidential issues, I will bring the names on your desk. Indeed

the Committee has done a good job, up to this stage, it is not bad but there are still some loop holes. Invite me and I will give you some more facts then we Table something serious in this House. Thank you.

Hon. Omwende: First and foremost, Mr. Speaker, may I take this opportunity to thank you very much for giving me this chance to air out my own observations. This is a House of rules and orders and Members are aware of that. You cannot come up with allegations which you have no evidence and then bring to this Hon. House. That is a very serious issue and I am requesting if more interrogations can be done.

The other thing I need also to say is, my concern was on Schedule one, that is about the budget allocation of Kshs 1.7, whether it was County Budget Fund or it was a personal donation and this generates up to Schedule three. My concern is on the students, those students that are already traumatized, those students that were doing these exams and the exam was stopped. Right now you know that the class eight pupils are going to do their KCPE.

This is a County concern because this can affect our pupils. The other thing is those teachers that were fired although it is not within our mandate, I have a concern whether their issues are going to be addressed because this was not the problem of teachers but they have now been affected. Otherwise, I don't know what Members still want because we are going to get this report from the Executive. I don't know what we need to go and interrogate from the same Executive. Thank you.

Hon. Andiego: Thank you, Mr. Speaker. I wanted this opportunity to thank Hon. Elisha Okuku for bringing a

2016 SIAYA COUNTY ASSEMBLY DEBATES

Statement on a very weighty matter of importance to this County. Indeed many people were asking about this Mock exam of Siaya. I want to start by saying that this was a noble timing bomb and none of us here, we all went to school and I believe all of us were tested in one way or the other.

When at work, at times we are evaluated to know if exactly what we have been going through is indeed relevant. Before coming out from a school, there are tests/exams which are set for our children. In a football match, you cannot play alone, you must be a team player and you compare if your team is perfectly trained. In Kenya we play friendly matches with other Countries to know whether they are in a good position to play in the main game.

I want to thank the Governor and myself for having sponsored an exam in my Ward and it was done. If you have been reading the papers, you have seen so many Counties doing exams. After the Siaya exam was cancelled, the Kisii, Makueni did it and this outcry did not come from those places. At times I take it that those who are competing with the Governor must have talked so loud to demoralize and even to spoil for the Governor in 2017 but I believe that it might have made the Governor much stronger.

We need to be tested and I am sure even next year we will do it. The only thing which is wrong, that the advisors must do, if the laws of Kenya state that Mocks should be done in the second term and we went ahead and did it in third term, there we went against the law. So, let us take it simple and advise the Governor to sponsor another exam next year but do it in the second term.

There is this issue, why are the CECM, CO, directors and other people who are in the education sector, if it is an exam of Siaya, each and every one must be involved whether sponsored personally, we must include the education officers. The questions which were raised here which were key, whether the Governor used the County money? The answer is here and it is in the record that he used his personal money.

What else are we looking for? So, if there is any County money that is lost and you believe that that is the money that the Governor used then we should question him! We wanted to know where the money came from and we have been given reasons. I don't see any wrong on the Governor using his portrait on the exams because even president Uhuru would have used his on the National exams.

Mr. Speaker, many of us, I being one of them, sponsor even sports in Ward level and in those sports we use our own money and in those events some people put their portraits and the noise has never been loud as we have realized this time. We are fighting for our children and let us not play politics with the education of our children. As a County we should weigh when to politic, the children of Siaya are our own children. We have the report, we have the answers to our questions, I think we should leave it as it is and we move on, thank you.

(Applause)

Hon. Were: Thank you, Mr. Speaker, Sir. What I saw on television, the CECM talking about, she stands corrected and she becomes a culprit. It is in this Country in 2013 and there were some votes that were read in a place called

2016 SIAYA COUNTY ASSEMBLY DEBATES

Tharaka Nithi and when these votes got to Nairobi, the returning officer in Nairobi read a different number, twice the number that we saw. When Madam Kethi Kilonzo who was our lawyer, presented this before the Supreme Court, the Jubilee lawyer dismissed this.

A fort night ago in this Country, a Nairobi Senator goes to some place in Machakos, does everything he did and the following day he denied that that was him because of the authenticity of the videos we see daily on our televisions. Why am I saying this? Until I am told the person was defending the County Government on television was Madam Pamela the CECM then I agree that this report is not right. But if that is not corrected or authenticated then I say I still don't know if that is our own CECM.

Number two, I am so glad that this money was not from the County Government, this money was from the Governor's pocket. Maybe the issue was raised by those people who are not good friends of the Governor, you might give out money and the Governor cannot become a prefect of all the printers in this County! And if the Governor sponsors an exam, he does not need to sit down and see them printing or even the CECM, maybe the printer might have put his portrait there because I went to the Governor's office and asked him but he was equally shocked the way I was. I rest my case, thank you.

(Applause)

Hon. Speaker: Hon. Members, allow me to say this; we have slightly departed from our normal procedure of answering the process of Statements and what we have been talking about is the views of the Executive and not the views

of Members of the Assembly/Committee. And from your sentiments, perhaps I captured that the Committee needs to address itself to certain issues. These issues are important for this House, for example, when Members contribute you realize that in response, there is no allocation for Mock examinations whereas Members are saying that in their Wards allocations/budget they have allocation for Mock examinations.

It is for the interest of the Committee to know then what the fate of these allocations is. That is not too hard to ask! You need to know about the timings, Members have asked here about the timings of mocks. If we did allocations of Mocks in our schools then what is the Committee advising on the timings of these Mocks? That is something the Committee can do and you can get from the Ministry of Education and they will tell you what that circular entails and what it directs, that is key.

It is important when Members ask, what is the relevance of a logo and a picture in Mock examinations where the matter is personal; you can just address yourself to that! Hon. Members, Members of that Committee, I don't think it is so hard when you indulge yourself as to question the conduct of a Member of the Executive who spoke on this matter.

Was it a Member talking on a personal account or as an officer of the County Government and then you give Members answers. It doesn't mean that this is rejected, this is their response. You use this to interrogate further, points of clarification that this House needs and you will come up with recommendations! You know you can even say, a recommendation, sorry to pre-empt, that we noted that the CECM talked the

2016 SIAYA COUNTY ASSEMBLY DEBATES

response to a matter that was of individual in nature, as a House we discourage Members of the Executive handling private businesses of the individuals.

You can even recommend as a Committee, if you are convinced that they used personal money but you can again say, because this elicited public outcry, that for future, we wouldn't wish where personal monies are involved, we won't wish where public monies are involved that we have portraits and logos in Mocks, for example. You can just give recommendations based on the findings but I agree that there is something that the Committee can find out from that response. It is that which you find out that you can even decide to bring here as a report!

Otherwise if you don't do that then you can be sure that what Hon. Oriaro said how about where something is outside the devolved functions of a County Government and how about the bursaries? But then if you said, when it is of societal importance and approved by this House then you can do it, that is when you will put safe your bursaries, that is when you put safe the Mock allocations.

I advise that the Committee can consider addressing themselves to some of the issues that have been raised here and we just deal with recommendations for considerations. You can even bring Motions emanating from this particular incident then we address this matter.

Next order!

MOTION

ADJOURNMENT

Hon. Speaker: The Mover is desirous of replying, just reply then.

(Laughter)

Hon. Okelo: I want to thank Hon. Members particularly Hon. Okuku for reminding us of the good old days when we had our Speaker as the Governor and since he is a serious prophet who frequently visits Got Ramogi, I wanted to ask him to visit that mountain once again and probably speak to the gods so that the current Speaker can be Governor again.

(Laughter)

Hon. Gare: Thank you, Mr. Speaker, Sir, with permission from the Majority Leader please allow me to move a Motion of adjournment pursuant to Standing Order no. 25 (3)

On a day when the Assembly is scheduled to adjourn to a day other than the next normal Sitting day in accordance with the Assembly calendar, the Leader of the Majority Party or the Leader of the Minority Party or another Member of the House Rules and Business Committee shall move a Motion of adjournment which shall be debated for not more than two hours after which the House shall adjourn without question put.

Mr. Speaker, Sir, according to the Assembly calendar regular sessions for 2016, the Fourth session of this Assembly is soon coming to an end on 1st December, 2016.

The House Rules and Business Committee in its meetings this afternoon didn't have any business for this House as from tomorrow, however, from the response by Committee Chairperson in the last Liaison Committee meeting, it was noted that most Committees still have a number of pending business including legislative proposals at the publication stage responses to stop Statement requests,

2016 SIAYA COUNTY ASSEMBLY DEBATES

Reports on Statutory documents submitted by the County Assembly and other investigative Reports that require deliberations and resolution of this Hon. House.

In this regard and pursuant to Standing Order no. 25 (4), I wish to Move that this Hon. House adjourns today for the short recess and resumes its Sittings on Tuesday, 8th November, 2016 at 2.30 p.m. This will provide adequate time for all the Committees to dispense with all the pending business before them and submit the same by 8th November, 2016, thank you.

Hon. Speaker: Has it been seconded? Somebody second it.

Hon. Gare: I want to call upon Hon. Adida to second.

Hon. Adida: Thank you, Mr. Speaker, Sir, I rise to second.

Hon. Speaker: Hon. Members, I propose that this Hon. House adjourns today for the short recess and resumes its Sittings on Tuesday, 18th November, 2016 at 2.30 p.m.; this will provide appropriate time for Committees to dispense with all the pending business before them and submit the same by 8th November, 2016.

Hon. Minami: Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute on the same. Indeed it's a shame especially considering your earlier communication that we have almost 50 pending Statements and other businesses that are still lying within our Committees. I am urging colleagues that the amount of time that is remaining before we go for our long recess is less than 3 weeks.

I will request that the time that we are going for the short recess, let's make maximum use of this time so that when we come back we have enough work to do that we don't come and go back to short

recesses or instead of us Sitting in the Assembly for 4 hours we are sitting for only 30 mins when only one item is on the Order paper. I will request my colleagues especially Chairpersons of Committees and Committees that have pending business.

I just heard one Committee having about 9 pending Reports, that is too much for a Committee and I don't know what they are still waiting for and I think it is very important that we dispense with those things so that when we are going for long recess, we will be through with them and when we come back next year, we will have new things to handle.

I want to say that as the Chairperson of the Ad hoc Committee that was looking into the issue of CECM Agriculture; a matter that was raised by Hon. Okuku. Our Report is ready, it's only that we couldn't Table it today. I want to call upon my colleagues that let's make sure we clear with the pending work. Thank you and I support the Motion.

Hon. Apiyo: Thank you, Mr. Speaker, Sir, indeed it is shameful that we can spend whole afternoon discussing one Report. Like on Wednesday Morning session or afternoon discussing two Reports that we should even discuss like a maximum of 5. As a Roads Committee chairperson, I even tried to advise the Liaison Committee Members that any time we are given a task to respond to it shouldn't take us up to 3 months. We should work with timelines since we don't have enough time as per now.

I know that after recess, this Hon. House won't be having quorums especially after January since most of us will be campaigning and this is why we should finish up all the pending work. I would request the Speaker to engage with the

Liaison Committee so that when we come back we should have at least 20 Reports to debate on. I stand to support the Motion.

Hon. Adida: Thank you, Mr. Speaker, Sir, allow me also to add my voice; it should be an opportunity for Members to go and do more work. It is true that gone are the good days when we used to have many Reports and this House was very interactive and as it is now, you see nowadays even quorum is a problem. So, it's upon us Members that we go out of our way so that during this short time; we should handle the Reports so that when we come back the House becomes more interactive the way it used to be. I support.

Hon. Andiego: Thank you, Mr. Speaker, Sir, it is good that we are going for a short recess but we have said severally that we need to pull up our socks. There are a lot of issues at times when you are engaging with the Executive blaming them, they normally say that their Reports are here and the Reports are taking long.

I am requesting fellow Chairpersons of these Committees that we need to pull up our socks. In many occasions the Speaker directs that a report takes 2 weeks but they end up taking 6 months, so some actions should be taken to such like cases because once you say that it goes for 2 weeks and it takes 6 months, so some action should be taken because by the time they are presented the period it was needed would have elapsed. We should carry out our work as quickly as possible so that we have business in this House, thank you.

Hon. Okuku: Mr. Speaker, Sir, the accuracy of the Clerks is questionable. I am a Member of the Liaison committee where we discussed the volumes of Reports which are still pending at the Committee level. The Committee that I

Chair which is Water & Irrigation has no pending Reports as I stand in this Assembly today and I said categorically that we had two Reports which by the time we were discussing what you read we were already done with one and the other one was coming the same week which we did.

If the Clerk to Liaison Committee can give you inaccurate Report the way she did then I think the Clerk to Assembly should clean up his House. I support that we go for recess but there is a lot of laxity and this laxity will also contribute and attribute to the performance of Members. For a Committee to come up with a Report; there is a lot to be done especially on the support staff and if you need to go outside on justification of activities, you need a vehicle for the same so; I don't think that blaming Committee Members is the right thing.

I would like to support the Mover but I want to say that by the time you are going to work on the Reports as Committee Members, Mr. Speaker, Sir, can you urge the Clerk to the Assembly to clean his House so that we have accuracy and actualization of things! I rest my case.

Hon. Munda: Thank you, Mr. Speaker, Sir, I also support the issue of adjournment and what I can also attest to is that I am a Member of Liaison Committee and when we sat Here last week and those Reports were Tabled Here and my Committee on Trade and Finance, we were told that the Reports were around six. But they are not six; some were forwarded to the Committee on Budget and appropriation and now that Finance is part of Trade, they now brought them to Trade but initially they were committed to the Budget Committee and so the pending business that we have at the moment are not more than four.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Ngure: Thank you, Mr. Speaker, Sir, I welcome the recess that we are going to but I have only one request that is to urge the Members that when Committee meetings are held during the time of recess that they attend the meetings to give them quorum so that meetings can proceed because sometime for some of us who live outside the County. One takes a flight back to Kisumu and drives all the way to Siaya to attend a meeting and there is no quorum and the meeting therefore cannot proceed and then you are asked to come and meet again in the same week, recess is also to help us sort out our private lives.

We don't cease to be private people just because we are in the Assembly. I request that Members do attend the Committee meetings to have quorums so that people do not travel from far for no reason. Otherwise I would like to have reason to go and have rest and come back fresh and to do some work during recess.

Hon. Augo: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I will urge Hon. Members to attend Committee meetings since they are very important. At times you go for the Committee meeting and you find that the Chair and the Vice chair are not available and when we begin our deliberations the Chair would come and ask if the Members who were present have had any input; so we wonder what our work is if we are part of the Committee. The Chair would not accept what you have discussed in the Committee and so we have problems. Mr. Speaker, Sir, protect me.

(Laughter)

Mr. Speaker, Sir, at times we have this problem and most of our Chairpersons are in the budget Committee and their

Vices. So you will find that when the Committee is called, even the Clerks have a very difficult time in conducting the meetings because without the approval of the Chair the Clerk will plead with you to confirm with the Chair and now we are left to wonder that if the Chair is not available we shouldn't have any meetings? We need some assistance there.

Hon. Ajwang: Thank you, Mr. Speaker, Sir; I want to talk on behalf of our Chairman to the Public and Governance Committee. It has been said that there are nine Reports that are pending which we have not presented to this Hon. House. This is not true because there are some which we presented Here when Sanmac Okoth was the Clerk to our Committee at that particular time and they are supposed to be five and not nine as it has been said.

(Question put and agreed to)

Hon. Speaker: I have communication to be made, the Hon. Apiyo the Chair of Roads Committee just made a communication that we will be hosting a team from the Senate and I wish to read this to you.

"This is a visit by the Standing Committee on Roads and Transportation to Siaya County. The Senate Standing Committee on Roads and Transportation was constituted in March 2014 pursuant to Standing Order no. 208 of the Senate Standing Orders. The Committee is mandated to consider all matters related to transport, roads, public works, construction and maintenance of roads, rails and buildings, air, seaports, Housing and communication. The Committee wishes to undertake to visit Siaya County to oversee the roads and transportation sector in the County. In particular the Committee wishes to be appraised on the

Committee agenda on roads and transportation is legislative and oversight achievements thus far what challenges it faces and the Senate's role in addressing those issues. The Committee request to meet its counterpart Committee in County Assembly in charge of roads and transportation on Friday, 28th October, 2016 at 11.30 a.m. to discuss the issues.”

I just want to wish the Committee well and ask them to prepare in good time and for the secretariat, be advised that you make logistical preparedness for our counterparts and any other Member who would wish to take part, feel free to liaise with the Chair of the Committee and represent us well.

ADJOURNMENT

Hon. Speaker: Would you be up standing then for adjournment, Members. There being no other business this House adjourns until Tuesday, 8th November, 2016 at 2.30 p.m. in the Chambers.

The House rose 4.30 p.m.

TUESDAY, 8TH NOVEMBER, 2016

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

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

PRAYER

PAPERS

Hon. Speaker: Yes, Majority Leader.

Hon. Otieno: Hon. Members, allow me to lay the Quarterly Financial and Budgetary Review Report (for the first quarter ending 30th September, 2016.)

Hon. Muhula: Point of Order!

Hon. Speaker: Yes, Hon. Muhula.

Hon. Muhula: I wish your indulgence on whether this House has changed the code of dressing that Hon. Members can come...

(Loud Consultations)

Hon. Speaker: Order! Hon. Muhula is right to ask, Proceed.

Hon. Muhula: There are some Hon. Members here who don't have ties, Coats and all that, have we changed the code of conduct?

Hon. Speaker: Yes, Hon. Muhula, that is a good question it is indeed in our Standing Orders, I will make a ruling on it tomorrow morning.

(Laughter & Applause)

Precede, Majority Leader.

Hon. Otieno: Mr. Speaker, Sir, I am just impressed with the way you have answered the question.

Hon. Members, allow me to lay on the Table of the House the Quarterly Financial and Budgetary Review Report (for the first quarter ending 30th September, 2016.)

(Hon. Otieno laid the Report on the Table)

Hon. Speaker: Yes, Hon. Chairman, Governance and Administration.

Hon. Awuor: Thank you, Mr. Speaker, Sir, allow me to lay on the Table of the House the response of the Committee on Governance and Administration on Statement request by Hon. Stephen K'adera – MCA, West Ugenya Ward on the list of employees of the County Government of Siaya.

(Hon. Awuor laid the document on the Table)

Hon. Speaker: Yes, Hon. Chairman of Committee on Agriculture, Livestock and Fisheries.

Hon. Agoko: Thank you, Mr. Speaker, Sir, allow me to lay on the Table of the House the Report of the Committee on Agriculture, Livestock and Fisheries on the state of the construction of Nyalagi fish Banda tenable in the F/Y 2013/2014 and 2014/2015 in West Alego Ward.

STATEMENTS

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Speaker: Yes, Majority Leader.

Hon. Otieno: Thank you, Mr. Speaker, Sir, allow me to put to the House the tentative business for Tuesday, 8th November, 2016 to Thursday, 10th November, 2016.

Tuesday, 8th November, 2016
Afternoon Sitting we expect the following Papers to be laid:-

- a) A Report of the Committee on Agriculture, Livestock and Fisheries on the state of the construction of Nyalagi fish banda tenable in the F/Y 2013/2014 and 2014/2015.
- b) A Report of the Committee on Governance and Administration on list of employees of the County Government of Siaya.
- c) Quarterly Financial and Budgetary Review Report (for the first quarter ending 30th September, 2016.)

Wednesday, 9th November, 2016
Morning Sitting, we expect a Report of the Committee on Agriculture, Livestock and Fisheries on the state of the construction of Nyalagi fish banda tenable in the F/Y 2013/2014 and 2014/2015.

Wednesday, 9th November, 2016
Afternoon Sitting, we expect a Report of the Committee on Agriculture, Livestock and Fisheries on the state of the construction of Nyalagi fish banda tenable in the F/Y 2013/2014 and 2014/2015.

Secondly we also expect a Report of the Committee on Governance and Administration on list of employees of the County Government of Siaya.

Thursday, 10th November, 2016
Afternoon Sitting, we expect a Report of

the Committee on Governance and Administration on list of employees of the County Government of Siaya.

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members, there being no other Business may we be upstanding for adjournment.

There being no other business, this House adjourns until tomorrow, Wednesday, 9th November, 2016 at 9.30 a.m. in the chambers.

The House rose at 2.40 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 9TH NOVEMBER, 2016

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

[The Temporary Speaker (Hon. Aneme) in the Chair]

(The Temporary Speaker and the Clerk-at-the-Table consulted)

Hon. Temporary Speaker: Clerk, do we have Quorum?

(The Clerk-at-the-Table confirmed the lack of Quorum)

The House rose at 9.45 a.m.

**QUORUM CALL AT THE
COMMENCEMENT OF
DEBATE**

Hon. Temporary Speaker: Can the Sergeant-at-arms ring the Quorum Bell for 10minutes!

(The Quorum Bell was rung)

Hon. Temporary Speaker: Do we have Quorum now?

(The Clerk at the Table confirmed the lack of Quorum)

Hon. Temporary Speaker: Can the Sargent-at-arms ring the Quorum Bell for another 5minutes?

(The Quorum Bell was rung)

MOTION

ADJOURNMENT

Hon. Temporary Speaker:
Hon. Member pursuant to section 31 (2) of the Standing Orders, I hereby adjourn the meeting until this afternoon at 2.30pm because of lack of Quorum.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 9TH NOVEMBER, 2016

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

[The Temporary Speaker (Hon. Ngure) in the Chair]

PRAYER

**QUOROM CALL AT THE COMMENCEMENT
OF SITTING**

The Temporary Speaker (Hon. Ngure): From the look of things, we don't have the requisite quorum. Sergeant-at-arms, can you ring the Quorum Bell for five minutes.

(The Quorum Bell was rung)

(Loud consultations)

ADJOURNMENT

The Temporary Speaker (Hon. Ngure): Hon. Members, Standing Order No.31 (1) says that a quorum of the House or of a Committee of the whole House shall not be less than a third of its Members; it is very much evident that we are unable to meet that threshold. Now, may we be upstanding for adjournment.

(All Hon. Members stood up in their places)

The House adjourns until tomorrow, Thursday, 10th of November, 2016 at 2.30 p.m. in the Chambers.

The House rose at 2.37 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

THURSDAY, 10TH NOVEMBER, 2016

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

[The Temporary Speaker (Hon. Osuri) in the Chair]

PRAYER

QUORUM CALL AT THE COMMENCEMENT
OF SITTING

The Temporary Speaker (Hon. Osuri): If there is no quorum, then can the Serjeant-at-arms, ring the Quorum Bell for five minutes!

(The Quorum Bell was rung)

(Loud consultations)

ADJOURNMENT

The Temporary Speaker (Hon. Osuri): Hon. Members, Standing Order No.31 (1) says that a quorum of the House or of a Committee of the whole House shall not be less than a third of its Members; it is very much evident that we are unable to meet that threshold. Now, may we be upstanding for adjournment.

(All Hon. Members stood up in their places)

The House adjourns until next Tuesday at 2.30 p.m. in the Chamber.

The House rose at 2.42 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 15TH NOVEMBER, 2016

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

[The Temporary Deputy Speaker (Hon.Abayo) in the Chair]

PRAYER

(The Speaker and the Clerk-at-the-Table consulted)

The Temporary Deputy Speaker

(Hon. Abayo): We lack quorum and due to the provisions of Standing Order 3, I direct that the bell be rung for 5 minutes.

(The Quorum bell was rung for 5 minutes)

(Quorum confirmed)

NOTICE OF MOTION

THE STATUS OF THE
CONSTRUCTION OF NYALAGI FISH
BANDA IN THE FY 2013/2014 AND
2014/2015 LAID ON THE TABLE OF THE
HOUSE ON TUESDAY, 8TH NOVEMBER,
2016

The Temporary Deputy Speaker

(Hon. Abayo): Hon. Chair of Agriculture, Livestock and Fisheries, Hon. Agoko.

Hon. Agoko: Thank you, Mr. Temporary Deputy Speaker, Sir, I wish to submit:-

THAT, this House adopts the Report of Committee on Agriculture, Livestock and Fisheries on the status of the construction of Nyalagi Fish Banda in the FY 2013/2014 and 2014/2015 laid on the Table of the House on Tuesday, 8th November, 2016.

MOTION

STATUS OF THE CONSTRUCTION
OF NYALAGI FISH BANDA IN THE FY
2013/2014 AND 2014/2015 LAID ON THE
TABLE OF THE HOUSE ON TUESDAY,
8TH NOVEMBER 2016

Hon. Agoko: Thank you, Mr. Temporary Deputy Speaker, Sir, I wish to move a Motion:

THAT, this House adopts the Report of Committee on Agriculture, Livestock and Fisheries on the status of the construction of Nyalagi Fish Banda in the FY 2013/2014 and 2014/2015 laid on the Table of the House on Tuesday, 8th November, 2016.

On behalf of Members of the Committee on Agriculture, Livestock and Fisheries inquiring into the status of the delayed construction of a fish Banda at Nyalagi beach-West Alego ward, Siaya County, Pursuant to article 185(3) of the Constitution of Kenya 2010 and Section 8 of the County Governments Act 17 of 2012, I am pleased to present this report to this Honorable House.

Mr. Temporary Deputy Speaker, Sir, this Report follows a statement request by Hon. Peter Muhula (MCA West Alego) over allegations of delayed construction of the said fish banda. The allegations were that the project contractor had been paid yet no work had been done way after the scheduled/contracted project-timeline. The statement also demanded an explicit explanation of plans (if any) by the relevant executive bodies to ensure the completion of the project.

The committee resolved to visit the Nyalagi beach to have a clear objective view of facts on the ground. Additionally, the committee held several consultative meetings with various stakeholders including several

2016 SIAYA COUNTY ASSEMBLY DEBATES

officers from the departments of Finance, Works and Agriculture. Analysis of the submissions in these meetings and the site visit eventually informed this report.

2.0 COMMITTEE MANDATE

The Committee on Agriculture, Livestock and Fisheries is one of the Sectoral Committees established pursuant to provisions of *Standing Order No. 200* and is mandated to:-

- (a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) Study the program and policy objectives of departments and the effectiveness of the implementation.
- (c) Study and review all legislation referred to it;
- (d) Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (e) Investigate and enquire into all matters relating to the assigned departments as they may deem necessary and as may be referred to them by the house;
- (f) Vet and report on all appointments where the Constitution or any law requires the House to approve, except those under Standing Order 195(*committee on Appointments*);and

(g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The committee was therefore mandated- pursuant to a statement request by Hon. Peter Muhula (MCA West-Alego) on 5th May 2016-, to establish the facts around the budgeted but delayed construction of a fish banda at Nyalagi beach West Alego ward (2013/2014 financial year). A contractor had reportedly been contracted and paid for the project but it was alleged- that as at the date of the statement request, no work had been done- long after the expiry of the contracted project timeline. The committee was therefore mandated to provide facts around the aforementioned allegations and as well as establish an explicit explanation on any proposed or planned interventions by the Executive to have the project completed.

3.0 COMMITTEE MEMBERSHIP

Mr. Temporary Deputy Speaker, Sir, the Committee on Agriculture, Livestock and Fisheries was constituted in regard to standing order no. 200 and comprises of the following Members;

- | | |
|-------------------------|-------|
| 1. Hon. Joseph Agoko, | - |
| Chairperson | |
| 2. Hon. Willis Ochieng, | -Vice |
| Chairperson | |
| 3. Hon. Eric Ndonji, | - |
| Member | |
| 4. Hon. Joshua Osuri, | - |
| Member | |
| 5. Hon. Kesia Siwa, | - |
| Member | |

2016 SIAYA COUNTY ASSEMBLY DEBATES

- | | | |
|------------------------|---|---|
| 6. Hon. Peter Ombee, | - | meetings were then analyzed and keenly considered for inclusion in this report. |
| Member | | |
| 7. Hon. Pius Ombiyo, | - | |
| Member | | |
| 8. Hon. Rose Okite | - | |
| Member | | |
| 9. Hon. Rosemary Ogutu | - | |
| Member | | |
| 10. Hon. Samuel Olasi, | - | |
| Member | | |
| 11. Hon. Zilpa Omondi, | - | |
| Member | | |

4.0 OBJECTIVES OF THE INQUIRY

- a) To establish reasons behind the delayed construction of a fish banda at Nyalagi beach-West Alego Ward as per the 2013/14 budgeted projects.
- b) To establish the interventions, current or planned, by the executive to ensure that the project is completed.
- c) To recommend way forward (legal or procedural) in as far as the contractual obligations of either party in the contract were concerned

5.0 PROCEDURE ADOPTED

The committee members visited the site and used observations and interview methods to establish the status of the proposed building first hand. Thereafter, the committee interviewed and noted submissions from various stakeholders

The committee invited the CECM Agriculture, Livestock and Fisheries, the CECM Finance, Economic Planning and Vision 2030 and the CECM Roads, Public Works, Transport and Infrastructure- on two occasions which they attended together with their technical staff. The results of these

6.0 EXECUTIVE SUMMARY

Mr. Temporary Deputy Speaker, Sir, in summary, the committee finds that the execution of the project in question delayed for over 3 years- having been contracted during the 2013/2014 financial year and eventually completed in this 2016/2017 financial year only after the intervention of this committee. As indicated earlier, the committee was not able to establish the exact commencement date of the project. It is however clearly noted that the contractor was paid before the works begun. As at the date of this report, the project has since been completed and officially launched by H.E The Governor in the company of the area MCA Hon. Peter Muhula.

Mr. Temporary Deputy Speaker, Sir, this inquiry further reveals that despite the outright delays in project execution, the contractor raised the invoice for payment on 22nd June 2014; 4 days before the official contract award which was later signed on 26th June, 2014 .The contractor was paid the full amount on 26th June 2014- the same day the contract was officially awarded. It is therefore important to note that the contractor was paid before works began.

Mr. Temporary Deputy Speaker, Sir, this committee's inquiry reveals that the execution of this project flouted several project procurement and implementation regulations with regards to public goods and services. Contrary to Articles 227(c) of the CoK 2010 –on procurement of public goods and services, 201 (d) of the CoK 2010 –on

2016 SIAYA COUNTY ASSEMBLY DEBATES

prudent use of public money, Section 121 of the Public Finance Management act 18 of 2012 –on procurement for county government entities and contrary to sections 44, 46, 48, and 62 of the Public Procurement and Asset Disposal act 33 of 2015- on internal organization of procuring entities and general procurement principles.

7.0 ACKNOWLEDGEMENTS

The Committee on Agriculture, Livestock and Fisheries wishes to sincerely thank the office of the Speaker and Clerk of the County Assembly of Siaya for the necessary support extended to it in the execution of its mandate.

Mr. Temporary Deputy Speaker, Sir, the Committee expresses its gratitude to the House for having entrusted us with the execution of this important oversight duty. These contributions, if approved, shall go a long way in stamping the oversight authority of this House as per article 185 (3) of the Constitution of Kenya 2010 and Section 8 of the County Governments Act 17 of 2012.

The Committee extends its gratitude to all representatives from the Executive arm of the county government who not only appeared but also provided the necessary information and documentary evidences that helped the Committee realize its objectives.

It is now my pleasant duty, on behalf of the committee on Agriculture, Livestock and Fisheries to table this report for immediate consideration and adoption by the house. The committee prays that this honorable House adopts the recommendations proposed herein.

8.0 INTRODUCTION/ BACKGROUND

Mr. Temporary Deputy Speaker, Sir, Article 185 (3) of the Constitution of Kenya 2010 read together with Section 8 (b) of the County Governments Act 17 of 2012 gives this House the authority to oversight on any department of the executive arm of the county government while respecting the principle of separation of powers. The honorable member's statement request was as well anchored on the section 9 (b), (d) of the county government's act 17 of 2012 –on the roles of the members of the county assembly. This committee therefore proceeded guided by subsection 200 (4) (5) of the County Assembly of Siaya Standing Orders-on the mandates and functions of Sectoral committees.

Mr. Temporary Deputy Speaker, Sir, it is worth noting that the history of this project dates back to the 2013/2014 County Government of Siaya Development budget.

The budget considered and awarded the Construction of a fish banda at Nyalagi beach in West Alego ward at a sum ksh.1, 200,000 under the department of Agriculture, project code 3110504. However, in FY 2014/2015 supplementary budget, the project was again considered as a brought forward project and awarded another ksh.211, 765 under the same department of Agriculture. This brought the total budgetary allocation for this project to ksh.1, 411,765.

However, on the 16th day of June 2014, the County Government of Siaya-under a contract number SYA/CG/SCM/TENDER/AWARD/2-13/2014/VOL.1(29) engaged one FAJA INVESTMENTS of post office box number 695 SIAYA, therein referred to as the

2016 SIAYA COUNTY ASSEMBLY DEBATES

‘contractor’ for the construction of a FISH BANDA AT NYALAGI BEACH in West Alego ward. The contract sum quoted in the contract document as having been accepted by both parties was ksh.1, 121,236.60 (Kenya shillings One Million one hundred and twenty one thousand two hundred and thirty six and sixty cents).

The contract document reads in part, that;

“...the contractor also covenants to start the execution of the works within 14 days from this date of agreement. Upon possession of the site, the contractor covenants to supply the employer with a work plan, for the execution of the works within seven days. That the work will be executed in 12 weeks’ time.”

9.0 FINDINGS

9.1 COMMITTEE VISIT TO THE PROJECT SITE

Mr. Temporary Deputy Speaker, Sir, at the onset of this inquiry, the committee visited Nyalagi fish banda site on 5th July 2016 to ascertain the real status of the project.

Committee observations

The committee observed that;

- i. The fish banda was still under construction
- ii. Workers were present and work on the roof had just begun
- iii. Some sections of the wall- had been demolished and redone

Submissions by the residents, BMU Chair, The Ward Administrator and the masons on site

- i. The BMU chair- who was present at the time of the committee visit -opined that the beach management and the community have never been involved by any authority, in the ongoing project thus creating a disconnect and lack of ownership between the project and the community.
- ii. They noted that the construction works stalled way-back in 2015 and resumed recently in mid-2016.
- iii. The ward administrator indicated that neither he nor his office was aware of the details of the project in question. He stated that the project was procured, contracted and started when his office had not been established and that upon recruitment, he was not briefed about it.
- iv. The committee noted that there was no Project Management Committee in place for the said project
- v. The community members indicated that the waters of the lake Kanyaboli had drastically and worryingly reduced over the years due to the diversion of the water source –River

2016 SIAYA COUNTY ASSEMBLY DEBATES

Yala to the Yala Swamp – away from the lake.

- vi. The masons indicated that they were apparently new on the project site and were not the initial workers who started the project.

From the observations and the submissions by the individuals on site, the committee resolved to invite relevant officers from the executive departments of Agriculture, Finance and that of Public Works in the subsequent investigative meetings to shed more light on the inquiry.

9.2 SUBMISSIONS BY THE AG.CEC MEMBER- AGRICULTURE, LIVESTOCK AND FISHERIES

Mr. Temporary Deputy Speaker, Sir, the department of Agriculture, livestock and fisheries was the client department for this project. The committee therefore resorted to seek various explanations from the department on majorly the following key issues:

- i. The status of the project since inception
- ii. The actual budgetary and contractual allocations for the project
- iii. The contractual obligations/ expected deliverables as per the contract

Mr. Temporary Deputy Speaker, Sir, the committee invited the CECM Agriculture, Livestock and Fisheries on two occasions and recorded the following submissions; (See annexure no. 7)

- i. The construction of Nyalagi fish banda was contracted and initially managed by the department of Finance, Economic Planning and Vision 2030 and the

department of public works without the involvement of the client department of Agriculture.

- ii. The department of Agriculture only got involved in the project after the intervention of this committee. At this point, the contractor had been paid and abandoned the site.
- iii. The recommendation to pay the contractor was solely made by the department of works without consulting the client department of Agriculture.
- iv. When the department of Agriculture got involved with the project, the department reportedly noticed anomalies in the works and involved the department of public works in having the contractor work as per the contract specifications.
- v. It took a lot of persuasion by the departments of Agriculture and the department of public works to convince the contractor to resume work on the project. This is because the county government was vulnerable since the contractor had been paid yet very little had been done.
- vi. The department of Agriculture termed this payment unfortunate and stated that termination of the contract was not a better option considering the payment that had been made verses the work done.

Mr. Temporary Deputy Speaker, Sir, the committee confronted the department with various questions on laxity in executing their constitutional roles. The department however opined as follows in regards to this project;

2016 SIAYA COUNTY ASSEMBLY DEBATES

- i. That the project was initially managed by the department of Finance and the department of Public Works and that the client department of Agriculture was not consulted whatsoever in the processes leading to the payments made to the contractor.
- ii. That when the department of agriculture, livestock and fisheries started managing the project, measures to have the project undertaken to a successful completion was properly initiated.

Mr. Temporary Deputy Speaker, Sir,
the department of agriculture, livestock and fisheries proposed the following recommendations in order to avert such anomalies;

- i. That the department of Finance, Planning and Vision 2030 should not solely manage projects of other departments without involving the client departments which is in line with section 46 of Public Procurement and Asset Disposal Act of 2015
- ii. That in the process of approving accomplishments of works undertaken by contractors on various projects, the department of public works should always be in consultation with the client departments(see annexure no.7)

**9.3 SUBMISSIONS BY THE CECM
ROADS, PUBLIC WORKS, TRANSPORT
AND INFRASTRUCTURE**

Mr. Temporary Deputy Speaker, Sir, the department of Roads, Public Works,

Transport and Infrastructure was the supervisory department. They ought to have inspected the project to ensure compliance with the contractual obligations and set regulatory standards, which they did not do. However, upon realizing the glaring anomalies in outright project delays and supposed payment irregularities, the committee invited the CECM to clarify various issues on the project such as;

- i. The department's view of the status of the project
- ii. What informed the department's decision to recommend payment for the project 4 days before the contract was officially awarded and before the contractor moved to the site of the project? (invoice for payment was raised on the 22nd June 2014 and payment made on 26th June 2014- the same day the contract was officially signed/ awarded)

Mr. Temporary Deputy Speaker, Sir, the following is a summary of the submissions by the CECM Roads, Public Works, Transport and infrastructure on various occasions he appeared before the committee on the a foregoing investigation;

- i. The department accepts that they erred in certifying the project good for payment before the commencement of works on the site. This, they agree was contrary to the guiding regulations and without actual inspection of the said works.
- ii. The department argues that during the formative stages of devolution, they did not have enough technical structures to effectively supervise the projects thus the anomalies.

2016 SIAYA COUNTY ASSEMBLY DEBATES

- iii. They also stated that the processing of the payment certificate was done in a rush for fear of the possibility of funds been returned back to the national treasury.
- iv. The department of works stated that when the contractor abandoned the project, they together with the department of Agriculture, prevailed upon the contractor to resume and completed the works to the required standards.
- v. The department indicated that the works were finally completed to their satisfaction on 12th August 2016

Mr. Temporary Deputy Speaker, Sir, on the glaring anomalies, the department of Roads, Public Works, Transport and infrastructure holds that;

- i. That the department has taken corrective measures including
 - a. ensuring that the relevant departments are involved in the supervision and payments to the contractors
 - b. employment of ward administrators by the county government who assist in monitoring projects through the project management committees (PMCs)
 - c. Additional staffing levels of the department to assist in implementation of projects.
- ii. On the issue of the irregular payment of works not done, the department holds that the works are now complete, the building is structurally

sound thus meeting the objectives of the project despite the delays.

See Annexure (no.4) for the documented reports by the CECM Roads, Public works, Transport and Infrastructure.

**9.4 SUBMISSIONS BY THE CEC
MEMBER- FINANCE, ECONOMIC
PLANNING & VISION 2030**

Mr. Temporary Deputy Speaker, Sir, the department of Finance, Economic Planning and Vision 2030, reportedly, together with the department of works, exclusively managed this project at the exclusion of the client department- the department of Agriculture.

The committee therefore invited the CECM Finance to report on various issues on this project. Majorly;

- i. Why the department exclusively managed the project at the exclusion of the client department
- ii. Why the department proceeded to pay the contractor 90% of payment for work not done.

Mr. Temporary Deputy Speaker, Sir, below is a summary of the submissions of the department of Finance, Economic Planning and Vision 2030 as presented by the CECM on various occasions he appeared before the committee on this subject;

- i. The department confirmed the award of the contract to the contractor mentioned herein as Faja Investments and subsequent issuance of an LSO number 761.
- ii. The department holds that project management anomalies were due to

2016 SIAYA COUNTY ASSEMBLY DEBATES

- the fact that these were formative stages of the county governments thus existence of technical and structural challenges in project management.
- iii. The department indicates that they solely acted on the strength of the certifications issued by the engineers from the department of works- who were presumed to have inspected and cleared the project for payment.
 - iv. The department of finance therefore confirms that they made payment to the aforementioned contractor to the tune of ksh.1, 098,038.60 –less 10% retention fee, on the 28th June 2014. This was after the contractor submitted payment claims backed by certified payment certificate confirming the quality and completeness of the project.
 - v. The department indicates that there was no inspection and acceptance committee and was not involved in the inspection of the said project but acted on the strength of the engineer's certificate.

Mr. Temporary Deputy Speaker, Sir, The department of Finance, economic planning and vision 2030 pointed out the following as the measures currently in place to avert such anomalies;

- i. That currently, all tender awards must be accompanied with an LSO to confirm the commitment of funds.
- ii. That currently, interim certificates must be signed by not less than four officers including project management committee (PMC) members.
- iii. That the inspection and acceptance committee report must also be produced before any payment is made.

See annexure (no.5) for the documented report submitted by CECM Finance, Economic Planning and vision 2030

10.0 KEY FINDINGS AND OBSERVATIONS

Mr. Temporary Deputy Speaker, Sir, this committee makes the following observations regarding this inquiry;

- i. This committee establishes that the project was contracted on 26th June 2014 and payments made on the same day on 26th June 2014 (together with other projects –not investigated). The department of works confirmed that similar cases were detected however corrective measures have been put in place to avoid such anomalies future.
- ii. The committee finds that the Invoice for payment of this project was raised on 22nd June 2014 –4 days before the contract was awarded on 26th June 2014. (*See annexures no.3 and 4*)

2016 SIAYA COUNTY ASSEMBLY DEBATES

- iii. That the department of Agriculture displayed outright laxity in executing their constitutional roles by being at the periphery and or excluded in the management of a project in which they are the client. A phenomenon that can lead to tremendous loss of public funds.
- iv. The department of roads, public works, transport and infrastructure and their inspection officers erred in certifying such a project good for payment by issuing a payment certificate yet the project had not been commenced. The committee finds this to be against the spirit of Section 48 of the Public Procurement and Asset Disposal Act 33 of 2015 on inspection and acceptance of the project. This committee has established that as at the time of the payment, the contractor had not even moved to the site (since the contract was signed on the same day that the payment was made-(26/06/2014) and invoice for payment raised on the 22nd June 2014- 4 days earlier.
- v. The department of Finance violated section 46 of Public Procurement and Asset Disposal Act 2015 on the establishment of evaluation committee in consultation with the client department to deal with the financial and technical aspect of the project by failing to involve the department of Agriculture, livestock and Fisheries in the project.
- vi. Furthermore, the department of finance claims to have acted on the strength of recommendations from department of works. This committee finds the Finance department to have violated section 48 of Public Procurement and Disposal Act 2015 on inspection and acceptance by failing to constitute an inspection and acceptance committee for the project that would inspect and review the works and service to ensure compliance with the terms and specifications of the contract and also issue the interim completion certificate.
- vii. The committee finds the office of the internal audit to have violated the constitution of Kenya 2010 Article 232 on values and principle of public service which include high standards of professional ethics by auditing and clearing payment vouchers raised for Faja investments (among other contractors not under investigation) to be paid by the County Government of Siaya for the work that had not been done knowingly that the contract document and payment voucher were both raised on 26/6/2014- with the invoice for payment raised 4 days earlier- on 22nd June 2014.(see annexure no.4)
- viii. The rush to pay the contractor before work was done –as indicated by the executive for fear of unutilized budgetary allocations being returned to the national treasury-was not an excuse since the committee observes that there are allegations that several development projects for FY 2013/2014 done to their completion

2016 SIAYA COUNTY ASSEMBLY DEBATES

- by various contractors have not been paid up to now.
- ix. The committee observes that the county government of siaya lost a lot of revenue that would have been collected from the use of the fish banda by those fishing and trading at L. Kanyaboli in the FY 2014/2015 and 2015/2016.
 - x. The committee finds that the contractor was indeed paid full project amount of Kshs. 1,098,038.60 less 10% retention fee for work not done as at the time of payment.
 - xi. The committee finds that invoice for payment of this project was raised on 22nd June 2014, four days before contract award on the 26th June 2014 and payment made fully on the same day 26th June 2014.(see annexure no.4)
- ii. In the process of documentary analysis, the committee came across questionable payments of similar nature made to eight specified contractors on the same date as the one under investigation. The total sum paid to all contractors was Kshs 6,480,718.03 (See annexure no.4). Although the investigations on these other payments was out of scope of the committee mandate, it was important to note this observation because it could be a pointer to other anomalies by the relevant department that could be subjected to investigations by related sectoral committees.
 - iii. That in line with Article 227, 2, (c) of the Constitution of Kenya 2010 -on the procurement of public goods and services, the County Executive should be compelled to take appropriate legal action against the contractor in question and any such contractors within thirty days after adoption of this report.
 - iv. That in line with Article 226 (5) of the Constitution of Kenya 2010, on accounts and audit of public entities, the committee recommends that the County Executive should take appropriate action against the culpable county government officers involved in processing of payments for this project.

11.0 COMMITTEE RECOMMENDATIONS

Mr. Temporary Deputy Speaker, Sir, the committee therefore makes the following recommendations;

- i. This committee therefore recommends that the executive should ensure that appropriate structural, technical mechanisms and the relevant regulations in project procurement and management be strictly adhered to by all the departments and the county officers in respect to the provisions of Constitution of Kenya 2010 and Public Procurement and Asset Disposal Act 2015.

11.0 ANNEXES

Annex 01 : Statement request by Hon Peter Muhula- MCA West Alego dated 5th May, 2016

2016 SIAYA COUNTY ASSEMBLY DEBATES

Annex 02 : Excerpt of the 2014/2015 supplementary budget highlighting provision/allocation for the construction of Nyalagi fish banda

Annex 03 : Copies of the contract for the construction of Nyalagi fish banda

Annex 04 : Copies of payment certificates and vouchers for the payment for the Nyalagi fish banda

Annex 05 : Copies of the responses from the department of Roads, Public Works, Transport and Infrastructure on the Nyalagi Fish banda

Annex 06 : Copies of the responses from the department of Finance, Economic Planning and Vision 2030 on the Nyalagi Fish banda

Annex 07 : Copies of the responses from the department of Agriculture, Livestock and Fisheries on the Nyalagi Fish banda

That is the Report and I would call upon Hon. Rosemary Ogutu to second.

Hon. Ogutu: I second.

erred in certifying such a project good for payment by issuing a payment certificate yet the project had not been commenced. This is our concern.

It's clearly stated that a project is awarded and the payment is done even before the project begins and I think this is something that should not be allowed to take place in the County Government. My concern is that this is the Executive and the

(Question proposed)

Hon. Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. K'awuor.

Hon. Awuor: Thank you, Mr.

Temporary Speaker, Sir; I thank the Committee of Agriculture and Livestock for work well done. It is unfortunate because I have not seen the one who raised the issues before us. If you go to page No. 3 which I am not sure if I have because mine is missing some pages but you can tell which page it is that touches on findings No. 3.

Hon. Temporary Deputy Speaker

(Hon. Abayo): It is on page 18(iii).

Hon. Awuor: Yes, it is page 18(iii).

The observation made that the department of Agriculture displayed laxity in executing their constitutional role by being at the periphery and or excluded in the management of a project in which they are the client which is a phenomenon that can lead to tremendous loss of public funds. If you analyze this statement under findings you find that a lot of laxity has been witnessed in this County Government.

Again on page 18 to 19 No.(iv) it says that the department of Roads, Public works, Transport and Infrastructure and their inspection officers

Committee is recommending to the said Executive that this should not happen and much more could have been done so as to stop or avoid the actions that the Executive took.

I don't think that there is much to add because I also had a copy that had a lot of annexures and that's why I just wanted to raise the said situations where a contract is

2016 SIAYA COUNTY ASSEMBLY DEBATES

awarded and paid before it is even started.

Thank you.

Hon. Temporary Deputy Speaker

(Hon. Abayo): Hon. Munda.

Hon. Munda: Thank you, Mr.

Temporary Deputy Speaker, Sir, for also allowing me to add my voice on this Report. I would like to thank the Committee for a work well done, it was a huge task but again they did it to their best with which we are also satisfied. Mr. Temporary Deputy Speaker, Sir, the fish banda was a project of 2013/2014 and we are told the work was completed in 2016.

There were a lot of anomalies in this project. First, you find that the invoices were raised even before the award was done. Payments were done even before the project begun. The Executive should come out clear and tell us what they were up to.

Mr. Temporary Deputy Speaker, Sir, I support the Report and its recommendations.

Hon. Angul: Thank you, Mr.

Temporary Deputy Speaker, Sir, for granting me this opportunity to also say something about this Report. First of all, I want to appreciate the Agriculture Committee for a job well done.

When you look at the findings of the Committee on page 18, it is stated that the invoice for payment of this project was raised on 22nd June, 2014, four days before the contract was awarded on 26th June, 2014. This is a very big violation of procurement laws.

In fact, as the chairperson of the PIC/PAC Committee, I will check with the 2014/2015 Audit Report and we shall be very keen on this Nyalagi fish banda and whether it has been raised as an audit query. The officers in the Department of Agriculture

should actually come clean on this and tell us why payment was done before the tender award.

Mr. Temporary Deputy Speaker, Sir, that is all I wanted to say and just to reiterate that since the 2014/2015 Audit Report is out, we shall be very keen on this project and call the concerned officers during that time to answer the queries. Thank you.

The Temporary Deputy Speaker:

Yes, Hon. Zilpa!

Hon. Omondi: Thank you, Mr.

Temporary Deputy Speaker, Sir. I am a Member of the Agriculture Committee and I thought this was a sad case and although Hon. Muhulah is not here, he is the one who raised the question. Without the intervention of this Committee, it could just be the way it was as it was left in 2014.

I think it was an outright theft because if Hon. Muhulah did not raise this issue, nobody would have bothered about it and the contractor would have got away with more than a million shillings without doing any substantial work.

When this Statement came to the Committee and started working on it and going to the site, I think the Chairman of the Committee did a lot of talking to the contractor. Without that intervention, things would have gone that way, so I think the role of oversight by Members of County Assemblies is very important and even the Members who are here.

It is important that they look at the projects that they had budgeted for because sometimes you just sit there but we don't know what could have happened like in this case where the contractor collected his money and he was very comfortable

2016 SIAYA COUNTY ASSEMBLY DEBATES

wherever he is. Otherwise, I support the report, thank you.

Hon. Odinga: Thank you, Mr. Temporary Speaker, Sir. I want to support this report. It is very comprehensive and informative. My intention had been brought to recommendation number two. I think this is very important especially to this House because we have various Sectoral Committees and by mention, the Agriculture Committee through this report, there are quite a number of anomalies which could fall directly or indirectly in other Sectorial Committees.

We need to make a follow up and also ensure that if they are mentioned over anomalies of similar nature on other Committees, the other Committees will have to do investigations so that we know who these other contractors are and these other affected Committees because at the end of the day we are denying services to the public. Otherwise, I have gone through it and I support it.

Hon. Osuri: Thank you, Mr. Temporary Deputy Speaker, Sir. I am a Member of this Committee and I support this report. On the Committee recommendation particularly on number three, that in line with article 27 (2) (c) of the Constitution of Kenya 2010 of the procurement of public goods and services that County Executive should be compelled to take appropriate legal action against the contractor in question and in any such contractors within 30 days after adoption.

This recommendation should be taken up particularly taking legal action against the contractor because as has been observed, had this project been completed as was scheduled, the community should have

done business in that project and got the income and because it was not done in time the contractor should be held responsible by taking appropriate action.

It is also very important as has been alluded to in II that although some other projects were paid for during that time, they were not within the scope of the Committee since they were not asked for but when the Committee was dealing with only the fish banda projects.

A good amount if investigated could have been found that they were paid even when the works were not complete because in the findings of the CECM Finance, they were giving an excuse that they didn't have enough staff at that time during the FY 2013/2014 and we would not know that some other projects that were carried out during that time were also shoddily done. Otherwise, I support the Report.

(The Speaker (Hon. Okode) left the Chair)

(The Temporary Speaker (Hon. Abayo) took the Chair)

Hon. Temporary Deputy Speaker:

There are no further submissions, may I call the Mover to reply.

Hon. Agoko: Thank you, Mr. Temporary Speaker, Sir, let me take the opportunity to thank the Members for their input and observations and I thank you so much for your observations and support. I want to reply on the comment by Hon. Awuor who punched some holes on our recommendations but then it's upon this House to recommend us appropriately because we can always amend the recommendations on the Floor.

I want to thank all of us and I want to say that as it has been noted a number of

____ 2016 SIAYA COUNTY ASSEMBLY DEBATES

projects as per the payment voucher and payment schedules a number of projects were fore paid on that particular day on that same sheet and even the officers themselves confirmed that such were also paid but have not been done on that particular day and that they were rushing and hurrying just because monies could be returned to the ex-checker which to us was a fallacy and this is because funds can always be rolled over and in this regard, Mr. Temporary Speaker, I want to thank you and may God bless you.

(Question put and agreed to)

MOTION

ADJOURNMENT

Hon. Temporary Deputy Speaker:

Hon. Members, given the fact that you have exhausted the agenda on the Order paper today, may you be up standing for adjournment.

This House stands adjourned until tomorrow at 9.30 a.m.

The House rose at 3.32 p.m.

WEDNESDAY, 16TH NOVEMBER, 2016

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

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYER**QUORUM CALL AT THE COMMENCEMENT OF SITTING**

Hon. Deputy Speaker: Clerk-at-the-Table, is there quorum?

(Lack of quorum confirmed)

Can the Serjeant-at-Arms ring the Quorum Bell for ten minutes?

(The Quorum Bell was rung for 10 minutes)

Hon. Deputy Speaker: Do we have Quorum?

(Quorum confirmed)

PAPERS

Hon. Deputy Speaker: The Chairperson for the committee on Governance and Administration.

Hon. Awuor: Thank you, Mr. Deputy Speaker, Sir, sometime last week I did lay this Report before this House and what I was waiting for is just to Move a Motion that this Report be adopted in the House.

Hon. Deputy Speaker: You can wait for the time for Moving the Motion, next Order!

NOTICE OF MOTION**LIST OF EMPLOYEES OF THE COUNTY GOVERNMENT OF SIAYA**

Hon. Deputy Speaker: Did you Move the Motion Hon. Awuor?

Hon. Awuor: Mr. Deputy Speaker, I did Move that Motion.

Hon. Deputy Speaker: Then we proceed, next Order!

MOTION**LIST OF EMPLOYEES OF THE COUNTY GOVERNMENT OF SIAYA**

Hon. Deputy Speaker: Chairperson Administration and Governance.

Hon. Awuor: Thank you, Mr. Deputy Speaker, Sir, I'm on my feet to Move a Motion that this House adopts the Report of the Committee on Governance and Administration on list of employees of the County Government of Siaya laid on the Table of the House on Tuesday, 8th November, 2016. On behalf of the members of Committee on Governance and Administration responding to the statement request by Hon Stephen

2016 SIAYA COUNTY ASSEMBLY DEBATES

Kadera I wish to table this response to this Honorable House.

On Thursday, 31st March 2015, during the afternoon Siting of the House the Hon. Stephen Kadera requested the Committee on Governance and Administration to provide:

1. A full list of staff that were absorbed by the County Government from the defunct local Authorities
2. A full list of the new officers employed by the Executive from March 2013 to date

Mr. Speaker Sir,

This matter was referred to the Committee given that matters on/about/relating to the Public Service specifically and broadly fall within the mandate of the Committee which according to Standing Order 200 read together with the Second Schedule of the Standing Orders, entails but is not limited to:

“Ensuring and coordinating participation of communities and wards in governance at local level, assisting communities and locations to develop administrative capacity for the effective exercise of the functions and powers and public participation in governance at the local level”.

9.1. Membership

Mr. Speaker Sir,

The Committee comprises 11 Members among which one is Chairman and another, Vice Chairman, and are:

52. The Hon. Joseph Kawuor, MCA
- Chairman
53. The Hon. Joshua Osuri, MCA
- Vice Chairman
54. Hon. Peter Muhula, MCA
- Member
55. The Hon. James Munda, MCA
- Member
56. The Hon. Fred Ouda, MCA
- Member
57. The Hon. Nicholas Aneme, MCA
- Member
58. The Hon. Mary C. Ajwang, MCA
- Member
59. The Hon. Anjeline A. Odhiambo, MCA
- Member
60. The Hon. Anastasia Augo, MCA
- Member
61. The Hon. Sellah Okwako, MCA
- Member

2016 SIAYA COUNTY ASSEMBLY DEBATES

62. The Hon. Kesia Siwa, MCA

- Member

RESPONSE

A. On the matter of the defunct local Authority staff employed by the County Government, The Siaya County Public Service Board engaged in 3 activities to ensure the process of absorption, and have provided a full list of all the staff absorbed by the County Government both by the County Executive and the County Assembly.

Activity No. 1 - Physical Headcount in the Sub Counties

The Headcount exercise was conducted between **October 2013 and December 2013** to gather basic information on the staff profiles as shown in **Table 1** and **Figure 1 below**.

A total of **308** staff presented themselves for the exercise as shown below.

Table 2: Total Number in the Sub Counties as per the Headcount Report.

Sub County	Total No. of Staff Interviewed
Alego – Usonga	133
Ugenya	44
Ugunja	23
Gem	38
Bondo	61
Rarieda	9
Grand Total	308

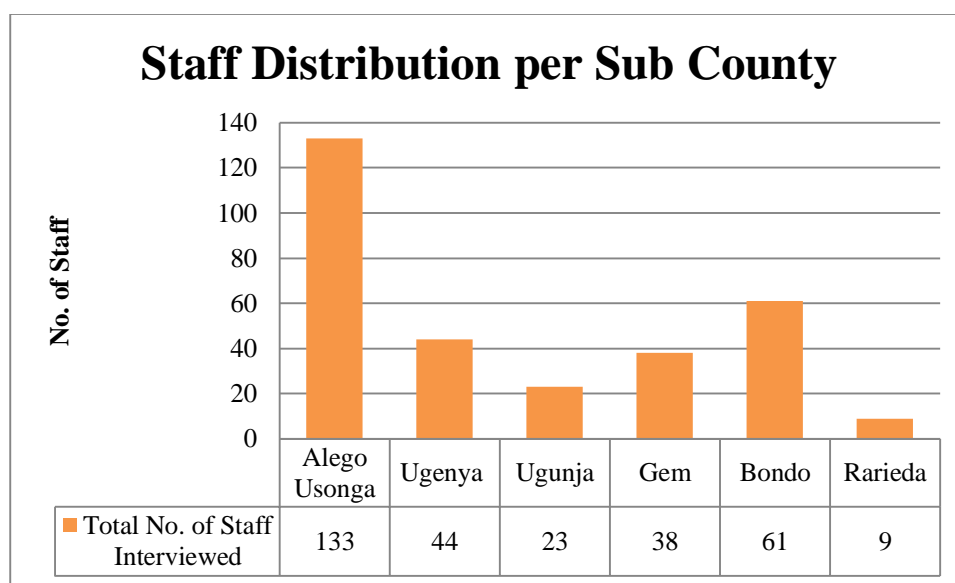


Figure 1: Graph Representation Sub Counties as per the Headcount Report.

Activity No. 2 - Report Analysis

With the basic information the Board analyzed the data presented and profiled individual Employee based on documentation availed during the Human Resource Audit. This enabled classification and

2016 SIAYA COUNTY ASSEMBLY DEBATES

recommendation for individual Employee to possible areas for Suitability Test.

The lower cadre staff (Cleaners, Messengers, Gardeners, Askaris, Headman, Watchman etc) as shown below;

Table 3: List of Lower Cadre Employee

Job Group	Designation	No of Staff in the Sub Counties
D	ECD Teacher	3
	Enforcement	3
	Senior Support Staff	95
E	Driver III	1
	Senior Support Staff	1
	Artisan III	1
	Clerical Officer I	1
TOTAL		105

- *HRM Officers, Admin Officers, Accountants, Training Officers*

Table 4: List of HRM Officers, Admin Officer, Accountants, and Training Officer etc

Job Group	Designation	No of Employee in the Sub-Counties
H	Admin Assistant	2
	Community Development Assistant	1
	Enforcement Officers	4
	HR Assistant	1
	ICT Officer III	1
	Mechanic	1

Job Group	Designation	No of Employee in the Sub-Counties
	Office Assistant II	1
	Personal Secretary II	2
	Senior Clerical Officer	15
	Accountant II	12
J	Admin Officer II	3
	Accountant III	1
	Chief Clerical Officer	9
	Community Development Assistant	1
	Enforcement	1
	Gender and Social Development Officer I	5
	HR Officer I	3
	ICT Officer II	3
	Personal Secretary II	1
	Senior Secretarial Assistant	3
	Supply Chain Management Assistant	2
K	Accountant I	5
	Admin Officer I	4
	Gender and Social Development Officer	2
	Land Survey Assistant	1
	Personal Secretary	1
	Supply Chain Management Assistant	1

2016 SIAYA COUNTY ASSEMBLY DEBATES

Table 5: List of Clerical Cadre

Job Group	Designation	No of Employee in the Sub-Counties
L	Assistant Engineer I	1
	Land Surveyor I	1
	Senior Accountant	2
	Senior Admin Officer	1
	Senior HR Officer	1
	Senior ICT Officer	1
	Senior Land Survey Assistant	1
M	Chief Accountant	4
	Chief Human Resource Officer	1
N	Principal Accountant	2
	Snr. Superintending Officer	1
P	Assistant Director Accounting	1
Q	Principal Administrative Officer	1
R	Director HRM	1
TOTAL		104

SN	Job Group	Designation	No of Staff in the Sub Counties
3	F	Driver II	2
		Enforcement	3
		Clerical Officer II	24
		Driver I	5
		Plant Operator I	1
		Senior Support Staff Supervisor	6
4	G	Admin Assistant III	3
		Artisan I	4
		Clerical Officer I	32
		Driver I	2
		ECD Teacher	5
		Enforcement	5
		Gender & Social Development Officer	3
		ICT Officer III	1
		Livestock Production Assistant	2
		Procurement Assistant III	1
		Secretarial Assistant III	1
		Senior Driver	2
TOTAL			99

- *Clerical Cadre; Accounts clerk, Audit Clerks, Stores Clerk etc*

Out of the **308** staff counted; 123 were Female and 185 were Male candidates.

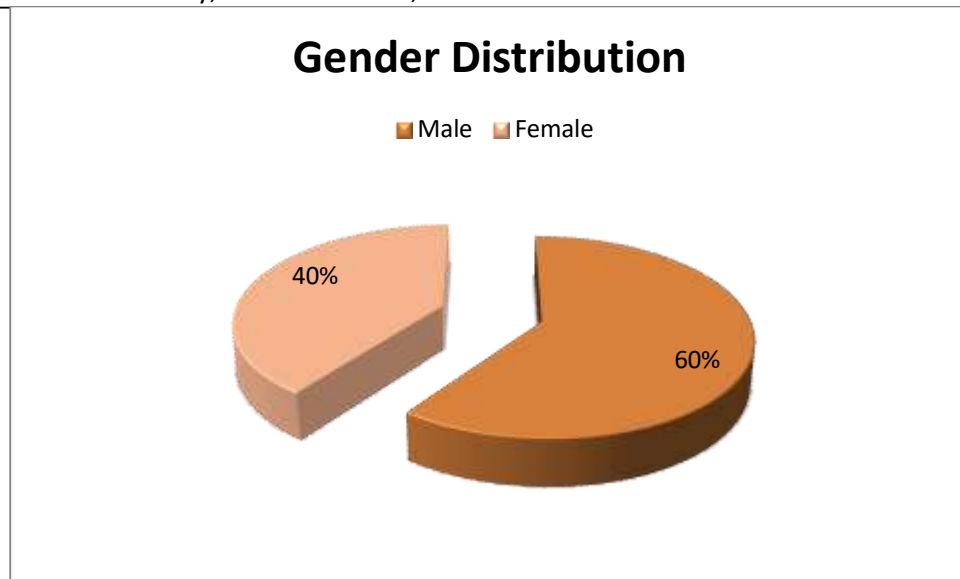


Figure 2: Defunct Local Authority Gender Distribution of Staff Counted.

Out of the **308** staffs counted **76** were above the age of fifty (**50**) years and above as per Figure 3 below.

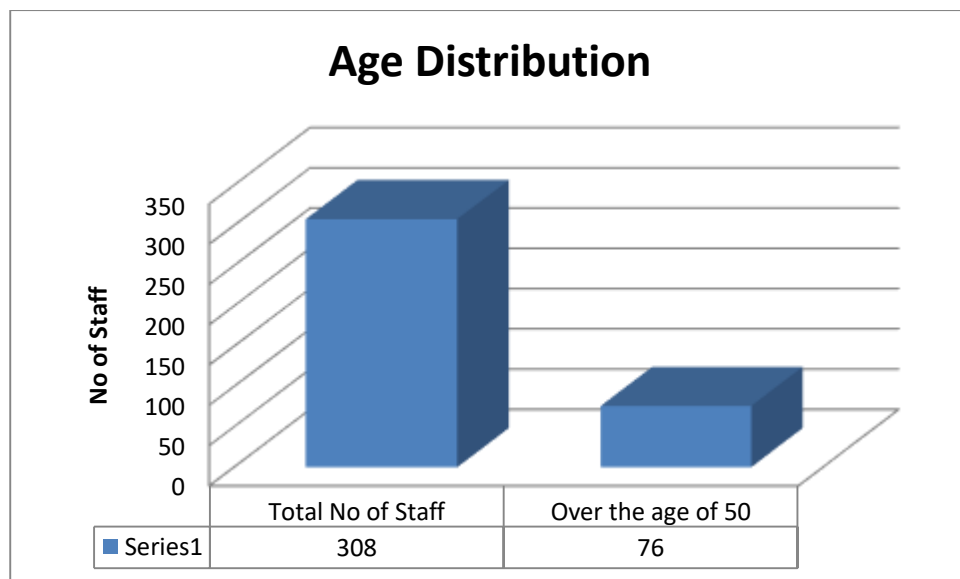


Figure 3: Age Distribution

A total of **355** Employees of the Defunct Local Authorities were invited for the Suitability interviews and only **324** appeared for the interviews translating to **31** who did not turn up representing a percentage of 91.2% attendance.

ACTIVITY 3: SUITABILITY INTERVIEWS

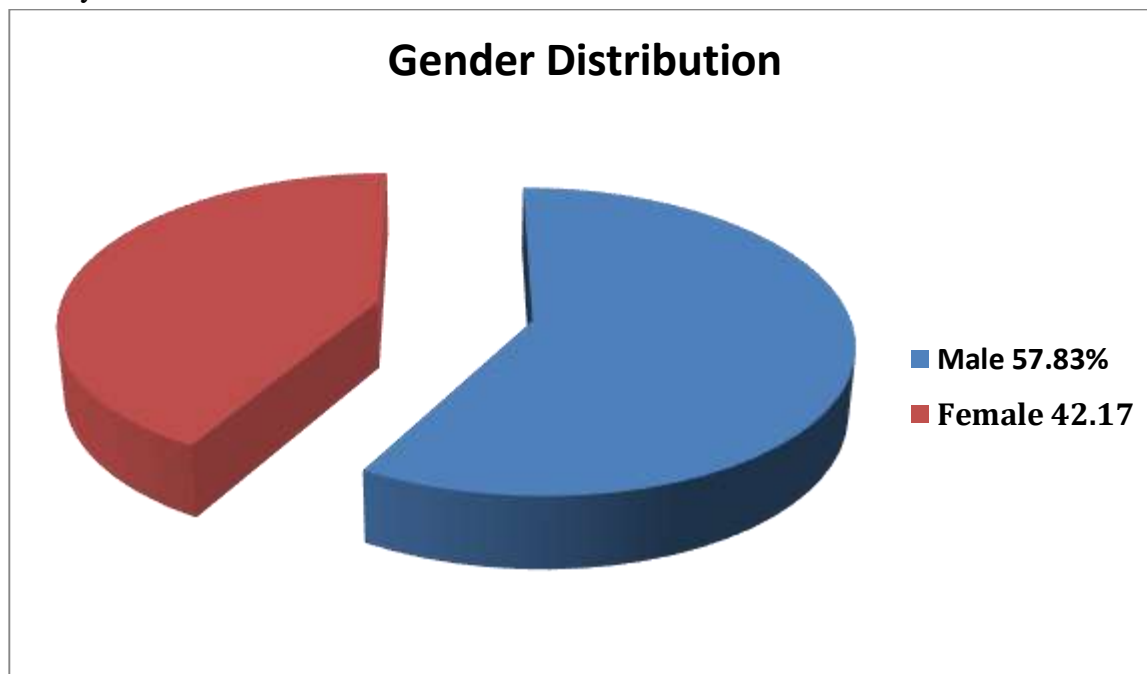
B. On the matter of the officers employed by the County Executive

2016 SIAYA COUNTY ASSEMBLY DEBATES

from March 2013 to date, the list has been attached to this response and the analysis of the list is as follows;

this number female staff are 235 while male are 327 as shown on the pies chart below.

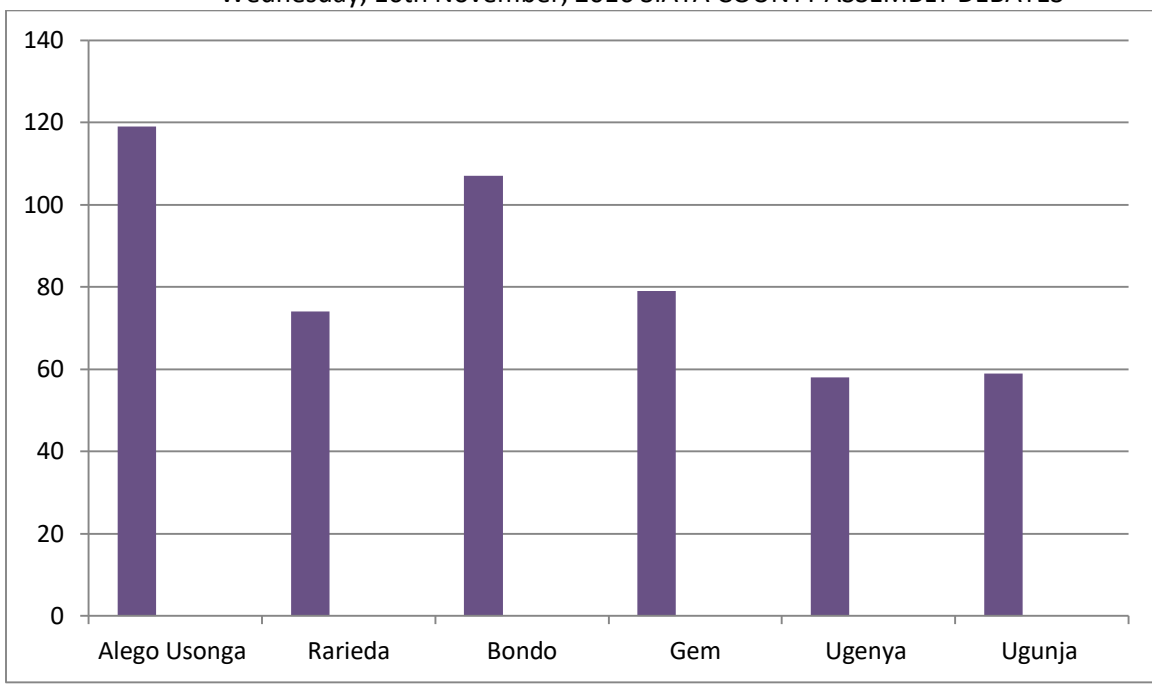
The total number of staff employed by the County Public Service Board stands at 562 of



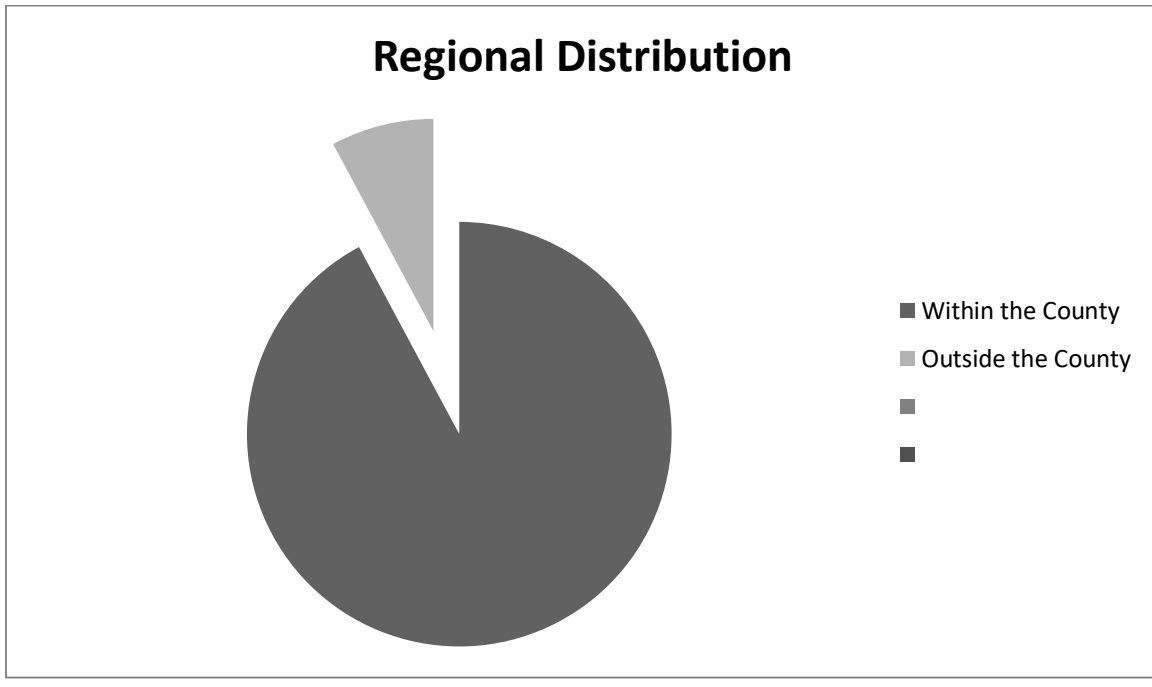
The regional distribution of these employees according to their sub counties is as shown below:

Sub County	Number of Staff
Alego Usonga	119
Rarieda	74
Bondo	107
Gem	79
Ugunja	58
Ugenya	59
Other Counties	44

Wednesday, 16th November, 2016 SIAYA COUNTY ASSEMBLY DEBATES



The total number of employees who come from outside the County are 44 of the total 562 and are depicted below;



2016 SIAYA COUNTY ASSEMBLY DEBATES

245	2000006619	Th	Revenue Clerk I I I	45	C	Revenue Clerk I I I	2000006011	10	10	42	2016 SIAYA				Enforcement	Raria
246	200020000000997	W	P	O	M	38	D	Revenue Clerk I I I	2000200101	15	85	J	Chief Clerical Officer	Raria		
247	2000800002133	O	G	O	M	27	A	Stores Attendant	2000800603	20	122	J	Chief Clerical Officer	Raria		
248	2000800022606	A	P	O	M	41	R	Assistant Town Clerk	2000800728	20	209	R	Director HRM	Raria		
249	19860005358	O	C	A	F		A		19861203	00	08	D	Senior Support Staff	Ugenda		
250	200100001161	O	M	O	M	37	A	Market Attendant I	2001004011	05	19	D	Senior Support Staff	Ugenda		
							Mark									

2016 SIAYA COUNTY ASSEMBLY DEBATES

271	19890010965	Oti eno	Ess n a s	O t h w i l a	F	56	B	L o c a t i o n a l S o c i a l D e v e l o p m e n t A s s i s t a n t	198900801	5	11	56	E	Clerical Officer I	Ug enya
272	20080002044	Ayo o	L i l i a n	A t t i e n o	F	43	D	R e v e n u e C l e r k I I	20080513	10	10	48	F	Clerical Officer II	Ug enya
								T o t a k e C l e r i c a l P r o f f i c i e n c y T e s t a n d C o m p u t e r A p p s							

2016 SIAYA COUNTY ASSEMBLY DEBATES

2888	198700032277	Ollinoye	Celliniyi	F	56	B		19870618	15	18	79		G	EC D	Uge nya
289	20090003437	Ndagas	Rifanung	M	41	A	Askari I	200911102	15	14	71		G	Enfor cement	Ugu nj a
290	19960006222	Odhiambona	Wiltoma	M	56	G	Security Officer I	199601117	18	18	77		G	Enfor cement	Uge nya
291	20100004311	Agunda	Peter Onyango	M	49	A	Market Attendant I	201001129	20	15	71		G	Gender & Social Development Assistant	Ugu nj a
292	19950002409	Otieng	George Gwara	M	46	A	Watchesman I	199507011	15	10	48		G	Ass. Livestock Health Officer	Uge nya
293	20110001235	Muganda	Chancellor	M	32	A	Askari I	201107011	15	18	78		H	Enforcement Officer	Ugu nj a
												Tobbedepl			

2016 SIAYA COUNTY ASSEMBLY DEBATES

(Question proposed)

(Question agreed to)

Hon. Awino: Thank you, Mr. Deputy Speaker, Sir. I have keenly listened to the presentation made by the Governance and Administration Committee Chair and I have taken note of the figures that have been read. My only worry is that the county government has not complied with the national requirement that a percentage of the workforce should come from outside the county so that the face of the nation is reflected. It is evident that our workforce is mainly comprised of locals and this is not as per the country's expectation. In future, we want to see people from other parts of Kenya being employed in this county.

[The Deputy Speaker (Hon. Adera) left the Chair]

[The Temporary Deputy Speaker (Hon. Okello) took the Chair]

We cannot only have one community taking the lion's share of jobs in this county such that one can even conduct a board meeting in *dholuo*. Other people from other parts of Kenya may also bring variety and experience to us. That's all. Thank you.

The Temporary Deputy Speaker (Hon. Okello): Hon. Members, the Floor remains open for your contribution. Yes, Hon. Agoko!

Hon. Agoko: Thank you, Mr. Temporary Deputy Speaker, Sir. I am on my feet to support the Motion and I want to thank the Committee for a good presentation. From the presentation, it is very clear that the report does not give a

proper reflection of the county. Job distribution in the county is so skewed that some regions are well represented while others are not. Devolution was not an avenue to ethnicize our staffing. Employing people from other areas brings integration and an opportunity for people to share experiences. This is not reflected in the county.

We only have 44 employees from outside Siaya. At one point, this Assembly even rejected the nomination of one lady to the Public Service Board simply because she was born in Siaya but married in Homabay. We have performed dismally in this area and we need to look at it critically. Thank you.

The Temporary Deputy Speaker (Hon. Okello): Thank you, Hon. Agoko. Is there any other Member wishing to contribute? Yes, Hon. Ombee!

Hon. Ombee: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Report of the Governance and Administration Committee. In the Report, it is indicated that a total of 355 employees of the defunct local authorities were invited to the suitability interviews and only 324 appeared. This translates to 31 who did not turn up for the exercise. Are the 31 who didn't appear ghost workers? Why did they not turn up for the suitability tests? That is my question, Mr. Temporary Deputy Speaker, Sir. Thank you.

The Temporary Deputy Speaker (Hon. Okello): Thank you, Hon. Ombee. I believe the Chair will respond on whether the 31 are ghost workers. Yes, Hon. Adera, the author of this question!

is your point of order?

Hon. Muhulah: Mr. Temporary Deputy Speaker, Sir, it is very unfortunate that the Hon. Member would stand and mislead the House—

Hon. Adera: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to add my voice to the debate which has arisen from the presentation by the Governance and Administration Committee Chairperson, Hon. K'awuor. This Report has been pending for quite a long time and I am happy that today it has seen the Floor of this House.

Mr. Temporary Deputy Speaker, Sir, when I asked this question sometime back, there was a public outcry about discrimination in Siaya County in terms of job distribution. The Report clearly indicates that indeed there is discrimination. Some regions have been neglected by the County Public Service Board while it is very clear that some sub-counties have taken the lion's share in terms of job distribution. This Report shows very clearly that something really needs to be done in this County.

Mr. Temporary Deputy Speaker, Sir, this County has got six sub-counties and if we can have 60% of jobs going to only one region, then that is very unfair. The County Public Service Board has only given us a total of employees who are under the defunct local authorities. We can say that this injustice started long time ago when the local authorities were still in existence because during those days, a lot of employees hailed from Alego Usonga, followed by Bondo. Gem comes---

Hon. Muhulah: Point of order, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Hon. Okello): Yes, Hon. Muhulah, what

The Temporary Deputy Speaker (Hon. Okello): Kindly use your microphone.

Hon. Muhulah: Mr. Temporary Deputy Speaker, Sir, these are staff that

2016 SIAYA COUNTY ASSEMBLY DEBATES

were inherited from the defunct local authorities. It is very evident that Alego Usonga is possibly the largest sub-county in Siaya. These are not employees that were employed after---

Hon. Adera: Hon. Chair...

Hon. Muhulah: Mr. Temporary Deputy Speaker, Sir, I am on a point of order!

Hon. Adera: Is that a point of order or the Member is contributing? Which Standing Order is he rising on?

The Temporary Deputy Speaker (Hon. Okello): Hon. K'adera, would you please allow the Member to continue.

Hon. Muhulah: Yes! And I am wondering why he cannot take his time to listen to what I am saying. I am only...

The Temporary Deputy Speaker (Hon. Okello): Have your microphone on, Hon. Muhulah!

(Hon. Muhulah switched on his microphone)

Hon. Muhulah: I am only trying to explain what is happening. This is not the list of employees that were employed after the coming of the county government; this is a list of those who were from the defunct local authorities and appeared for the suitability tests. Some did not!

The Temporary Deputy Speaker (Hon. Okello): Thank you, Hon. Muhulah, your point is home. Hon. K'adera, continue with your contribution with the observance of Hon. Muhulah in mind.

Hon. Adera: Thank you, Mr. Temporary Deputy Speaker, Sir. It seems Hon. Muhulah does not understand basic terms that I am using. I had stated in my contribution that the injustice started long time ago during the time of the defunct local authorities.

Hon. Muhulah: Hon. Temporary Deputy Speaker, Sir, where is the injustice?

(Loud consultations)

Hon. Ogutu: Mr. Temporary Deputy Speaker, Sir, guide the House!

The Temporary Deputy Speaker (Hon. Okello): Hon. Muhulah is making a point that according to his interpretation, he gathered that when Hon. K'adera was making his contribution, he alluded to the fact that the perceived injustice is an occurrence occasioned by the county government of Siaya. His concern, as I get it, is that that is something that started before the county government came into place. Hon. Muhulah, Hon. K'adera is clarifying that he referred to that as a historical injustice which did not start with the county government of Siaya. From where I sit...

Hon. Muhulah: Hon. Temporary Deputy Speaker, Sir, where is the injustice? Alego Usonga was employing their people; Ugenya was employing its people.

The Temporary Deputy Speaker (Hon. Okello): Hon. Muhulah, you will sit down and wait for your turn to make your contribution and Hon. K'adera will continue with his contribution uninterrupted.

Hon. Adera: Thank you, Mr. Temporary Deputy Speaker, Sir. Apparently, Hon. Muhulah comes from Alego Usonga Sub-County and that is why he has to defend the social injustices committed since time immemorial. You can see how they can fight back.

(Laughter)

2016 SIAYA COUNTY ASSEMBLY DEBATES

Anyway, Mr. Temporary Deputy Speaker, Sir, it is very unfair that some regions have been neglected just as I had indicated before. During the days of the local authorities, we had about 355 employees but we have not been given the total number of employees who have been employed by the Public Service Board. From the list, it is crystal clear that there are a few dominant regions. If you read the names, you will see Alego Usonga appearing a number of times.

Should we only employ people from only one region? If it is a matter of qualification, I believe that Gem, Ugenya and Ugunja are known for academic excellence. We have doctors from those areas; we have lawyers, professors and even engineers. I am surprised that we only see names repeating from the same region.

The Public Service Board should tell us why they tend to lean on one region. There was a public outcry in Siaya and even in this Assembly some months ago and when we were discussing some names and there was concern that the list did not reflect the face of the county. Something should be done.

I am not supporting the document because it is balanced, but I am just supporting that we pass it because it is the list that has been forwarded to the Assembly. I support it but something more should be done after we are through this.

As I conclude, there is need for the County Public Service Board to do some civic education or publicity in the Sub-Counties especially those that have the least people in the work force. They should be told the need to apply for those jobs if at all they have not been getting proper information. They should indicate to the people whenever they advertise for jobs.

Otherwise, Mr. Temporary Deputy Speaker, Sir, I do support the debate.

The Temporary Deputy Speaker
(Hon. Okello): Yes, Hon. Willis!

Hon. Ochieng': Thank you, Mr. Deputy Temporary Speaker, Sir; I will start by thanking this Committee for having brought this Report as much as it's taken them almost a year to Table it here for discussion.

I would say that it is very important to have such a Report in this Honourable House because we all know that the devolved Government came to benefit the entire Siaya residents and as we have seen in this Report we see a number of employees who were employed by the Government of the defunct local authority who were taken by the County Government of Siaya.

The County Government of Siaya too employed more workers to add on to the numbers they inherited from the Local Authority. It will be very appropriative when this Committee could have brought for us this Report into details because we are all aware that we all come from different Wards and represent different areas.

We would also like to see our people from the Wards we represent get employed by the County Government, but as we look into these, just as the Speaker has put it well that this employment is not equitable because there are Wards with lesser people employed in the County Government while they too are members of Siaya County Government going by the calculations as per Ward.

I would request the Committee to liaise with Public Service Board to see that when they do advertisements it reaches the Wards. There are some Wards that are

very far from the Headquarters where it's ...

The Temporary Deputy Speaker
(Hon. Okello): Hon. Osuri.

Hon. Osuri: Thank you, Mr. Temporary Speaker, Sir, I would wish to inform Hon. Willis Ochieng' that however, the Committee would have wished to act on the issue of the staff within the Ward to see if there is a balance in the employment. The Committee was only concentrating on the statement request which was as he has stated; is a full list of staff that were absorbed by the County Government from the Local Authority.

Another is the full list of the new employees absorbed by the County Government by the Executive in March 2013 to date; we were not requested to do findings of staffs within the Wards.

The Temporary Deputy Speaker
(Hon. Okello): Hon. Willis is the information from Hon. Osuri useful for your use?

Hon. Ochieng': It's not useful to my contributions because this could be an added work on top of what they were going to do as per the statement of the request and as a matter of fact I think they have some allocation in their budget whereby they should continue with what I am telling them to do depending ---I think I am just about to wind up and this should come out clearly for us to know how many people have been employed by the County Government as per the Wards.

As much as this County has got 6 Sub Counties, we still have 30 Wards and we want to know how many are from West Yimbo, Sigomre and even East Yimbo so that we know the people from our Wards that are also employed by the County. It is only Siaya where by the whole County has got the Human Resource that is required

within this County and there is no Ward that has illiterate people that can't be employed...

The Temporary Deputy Speaker
(Hon. Okello): Hon. Member for South Sakwa, what is your restoration?

Hon. Aneme: Thank you, Mr. Deputy Temporary Speaker, Sir; I think the speaker on the Floor is misleading the House. What we were dealing with in our Committee was not how the recruitment of people was being done at the Villages, Wards and even the Sub Counties.

We were asked to look for the list and it has been brought to the House, so the manner in which he is digressing on the matter is not helping. Because if he is talking about decentralization of the recruitment of staff of Siaya then I believe that needs another request.

The Temporary Deputy Speaker
(Hon. Okello): Thank you, Hon. Aneme. I believe your information is similar to the one given by the Works chair, Hon. Osuri and Hon. Willis stand guided that you have opportunity through the procedure and processes in this Assembly to present a statement that will conclusively deal with the matter you are alluding to.

Hon. Ochieng': Thank you, Mr. Deputy Temporary Speaker, Sir; as much as that was not considered, I also want to thank the employment officers in charge of the employment because it's above the 1/3 gender and you can see they considered the gender balancing rule. Otherwise I thank the Committee and I will be back with the statement so you can act on it as soon as possible.

The Temporary Deputy Speaker
(Hon. Okello): Thank you, Hon. for West Alego!

Hon. Muhula: Thank you, Mr. Deputy Temporary Speaker, Sir; there are

some reactions from two Members in this House; Hon. Adera and Hon. for Yimbo West. This House has representatives from the Wards and the responsibilities of Public Service Board are only to ... Mr. Deputy Temporary Speaker, Sir; can you protect me from Hon. Ndonji!

The Temporary Deputy Speaker

(Hon. Okello): Hon. Member for East Ugenya you are interfering with your immediate neighbour, is there any matter that you want to address to this House?

Hon. Ndonji: Mr. Deputy Temporary Speaker, Sir; there is nothing that I have done, I was just reading this document and he is saying that I am disturbing him, so...

(Laughter.)

Hon. Muhula: All right, Mr. Deputy Temporary Speaker, Sir; it is the responsibility of this Honourable Members, if they had any communication from the Public Service Board about the employment. It is their responsibility to talk about it and at this time if you still expect the Public Service Board to go around talking about employment which is not their responsibility then we are dealing with people who are not informed.

Due to this, the people of Alego Usonga will then still continue to get employment because what we do is to take responsibility to take the information to our people so that they apply.

Secondly, the question that was asked by the Hon. Member for Ugenya was to show the list and number of staff and that is exactly what the Committee has done and the list is there. The other complaint that we are talking about was never asked to indicate on who were from outside Siaya County. The Committee on

Administration and Governance states here clearly those three steps that were undertaken:-

1. Physical head count on how many people were there, the question is there plus even the pie chart showing the position which is very critical for this question.
2. The question of not reporting on the data that they have collected and they are saying here clearly that all these Board analysis presented for filling individual employees based on documentation available during the Human Resource audit head count. Unless there is different English that they want to hear from this document, otherwise this Report is clear! So tell the Hon. Members from Today let them look at the website, the newspaper and as well as consult with the Public Service Board then take the information to their people. We don't want people coming here to complain because if they complain before employment without knowing that we see these people. If they are given the employment would they perform? The answer is No! So let them be proactive in looking this thing, apply and get shortlisted. Thank you.

The Temporary Deputy Speaker

(Hon. Okello): Thank you. Hon. Elisha! Hon. Rosaline I think you have made your contributions.

Hon. Okuku: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving

2016 SIAYA COUNTY ASSEMBLY DEBATES

me this opportunity to support this Report. I want to give support to this Report because I believe strongly that the Committee has addressed the issue as per the questions and concerns of Hon. Member for West Ugenya.

We must agree that the former Local defunct authorities were not having the same strength, therefore the level of engagement of staffs differ from one to another which escalates to a very wide range of opportunity to hire more staffs compared to Ukwala, Yala and definitely Ugunja. That also gives Bondo the same opportunity compared to other areas.

I want to say with authority that at any level these two will never be the equal, because even the time when Jesus was in the World, people were not equal and that's why when you look at the Bible critically you find that Simon Peter was given authority with some keys and Jesus promised that whatever is opened here on earth will be opened in Heaven. When you go to Mathews, Judas and the rest of the people cannot be equal and will never be equal in strength...

The Temporary Deputy Speaker
(Hon. Okello): Hon. Elisha, are you aware that the Bible says that we are all equal before God, unless you have a specific Bible reference to justify your claim that we cannot be equal?

Hon. Okuku: Thank you, Mr. Temporary Deputy Speaker, Sir; I will refer you to Mathew chapter 12:8 go read and hear for yourself.

(Laughter)

Hon. Awino: For the son of man is Lord of the Sabbath.

(Applause)

The Temporary Deputy Speaker
(Hon. Okello): Hon. Elisha please continues.

Hon. Okuku: Mr. Temporary Deputy Speaker, Sir; I want to say that even though the County Government inherited staffs from the Defunct Local Authority and the Public Service Board has tried to play an equitable and qualitative role of employment, I want to say that to some extent the County Assembly has not stood up to help the Public Service Board towards correctional measures.

You find that at times we complain while we are the same House who approves some names without considering gender and regional balancing. I therefore want to say that as well put by Hon. Zilpah "that the Bible also says that those who have shall be added while those who don't have even the little they have will be taken away from them" I can even urge the Public Service Board to take away even the little Ugunja people have because they complaining for nothing, thank you and I rest my case.

(Applause)

The Temporary Deputy Speaker
(Hon. Okello): Hon. Rosemary!

Hon. Ogutu: Thank you, Mr. Temporary Deputy Speaker, Sir, just to add my voice on the motion which is on the Floor by saying that as an Assembly what we should know is that the wage Bill in Siaya County is very high as per now. As far as considerations were made all the workers from Defunct Local Authority were inherited and that is Siaya municipal council, Ugunja, Ukwala, Yala and Bondo all were inherited here.

So what the Public Service Board has been doing that I really commend is that they have been advertising the jobs which needs the qualification which we didn't have and also for the new offices that were created. I therefore support the

2016 SIAYA COUNTY ASSEMBLY DEBATES

Report from the Committee of Governors for the least but as an Assembly we are supposed to be aware for the wellbeing of the County. Thank you.

The Temporary Deputy Speaker
(Hon. Okello): Thank you, Hon. Rosemary; we will have Hon. Ndonji and then Hon. Member for Sigomre Ward.

Hon. Ndonji: Thank you, Mr. Temporary Deputy Speaker, Sir, I want to start by saying that whatever Hon. Okuku has should be taken away from him and added to me because I have more than he has...

The Temporary Deputy Speaker
(Hon. Okello): could you pass the hand microphone to *Mheshimiwa*.

(Microphone passed to Hon. Ndonji)

Hon. Ndonji: As I was saying, I think that even Hon. Elisha's hair should be given to me because he doesn't have any going by what he has said before the House today. All the same I want us to confine ourselves to the statement itself. The statement is very clear and I want to read it, it's a response on the statement request by Hon. Steven Kadera on the list of employees of the County Government of Siaya.

Going through the Report, there were no recommendations given by the Committee, which means that the Committee should still go and work on the recommendations because if we just say that we just have this Report, it is only that the list has been brought but there are no recommendation, so there is nothing that we are going to tell the Executive to do and I think that it's from this whatever has been given here that we now come up with what should be given to the Executive on a statement request by Hon. Stephen K'adera, on the list of employees of the Siaya County Government.

Going through the Report, there are no recommendations that were given by the Committee which means that the Committee should still go and work on the recommendations. In this Report, it is only that the list has been brought but there are no recommendations and so there is nothing that we are going to tell the Executive to do because they think that it is from whatever has been given here that it will now come up with implementations.

I want to differ with the Hon. Members who were saying that the employment was lopsided because we had different local authorities. We had Siaya County Council which was for the whole County, we had Bondo Town Council and we also had Bondo County Council at the later stages just before devolution.

I want to say that these County Councils were not meant for particular Sub Counties or municipalities. I may want to know if there are more people that were employed in Siaya Municipal Council, Ukwala Town Council, Ugunja Town Council or Yala Town Council if they were coming from that vicinity but if you are looking at it in terms of County Councils then I think it was still not right at that time.

I also tend to think that the Public Service Board, when it is considering people for employment, they should be looking into that one. If anybody says that people are not equal, nobody would have been talking about equality and I think that one must have been wrong if we are saying that people are not equal. We have been very much aware that people are not equal, some people are more equal than others but there are reasons some people can be more equal than others.

Even right now there are places that you can have privileges because you

are a Hon. Member of the House, whereby such places you may find that not any other person is allowed to get inside, it means that up to that extent you are not equal. At the same time, for example the person who fitted these microphones we are using knows how to do it and it means that this person is more equal than us in doing that work, so it depends on where we are talking about equality.

We cannot say everywhere that people are not equal otherwise the Constitution would not have talked about regional balancing and 1/3 gender threshold. This is coming because we are trying to change so that there is at least some equality when it comes to things that we need to be equal.

I support the Report but I want to say that the Report should be taken back to the Committee so that they bring recommendations then we can talk about the recommendations. Lastly, I want to urge Hon. Willis Ochieng that the way he has said that he is soon coming up with a statement to ask the Public Service Board to give us the list of people they have employed since the Public Service Board got into being to do it very fast so that we can now talk from that point of view.

Thank you, Mr. Speaker, Sir, I support the Report.

The Temporary Deputy Speaker
(Hon. Okello): Thank you, we will have Hon. Omwende.

Hon. Omwende: Thank you, Mr. Temporary Deputy Speaker, Sir, I will not speak much, because most of what I wanted to say has already been said. First and foremost, I support the Report and I was really keen watching how Members are contributing in this Hon. House. The

Report in front of this House is a weighty one. It needs sobriety and intelligence.

One, I am hardly contented with the Report where they were talking about the full list of staff of the defunct local authority, the list is provided but if one looks at the second page where there is the full list of officers employed by the Executive from March 2013, to date, from the Report it is not clearly spelt out. It is very difficult to know, the list is not clear, it is mixed up, you can't know this is the devolved local authority and where now the County Government took over. I was kindly requesting if possible, this Committee should be given more time to go and interrogate and give us a list from the public Service Board; the full list of who they have employed.

My concern is now the new Public Service Board; if they can provide the list from there it will give us a chance to debate and talk about those regional balances, gender equality and more issues like people living with disability. Thank you.

The Temporary Deputy Speaker
(Hon. Okello): Hon. Members, if there are no further contributions then we will ask the Chairman of Governance Committee to respond to some of the issues that have been highlighted.

Hon. Awuor: Thank you, Mr. Temporary Deputy Speaker, Sir, I want to sincerely thank Members of this Hon. House for a very sober contribution. I want to respond to some of the questions and concerns raised by Hon. Members.

Hon. Agoko rose on his feet to say that proper representation was not done. I agree that is captured, I will go through it and if you look at the Report well you will see whether it is properly done or not.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Zilpah Omondi was concerned about only employing locals and at times the membership of this County can lock themselves somewhere like the Assembly and speak one vernacular language which should not be the case. The Constitutional requirement states that we should have at least 30% from outside this region, which the County Government has not done. I think that is noted, it is a concern that we all share as a Committee.

Hon. Ombee talked about the ghost workers, the 31% that he was calling ghost workers are not ghost workers. If we went through this Report, then you will find that the so called 31 who never attended the first interview were found to have been absorbed by the County Assembly. So it is very clear that there is nothing to answer there because it was found out later that those are now employees who were absorbed by the County Assembly.

The Hon. Stephen K'adera said that it is a concern that 60% comes from one region. There is somewhere that we have noted that 60% have gone to no particular region, it is not there in our tabulation no region has 60%, in the Boards tabulation it's not there, no region has 60%, the 60% that we have is of male and 40% are female and is very clear the tabulation.

I think the issue of former local authorities, is a concern that has been raised by quite a number of Hon. Members, the former local authorities were in Siaya County which comprised of quite a number of Sub Counties but more important to note is that Siaya the then County Council also had within Alego Usonga had a local Authority called Siaya Municipal Council.

These were entities that had a mandate of employing staff. You will find

the natives of Bondo Town Council were just people within Bondo Sub County and that number can rise because the natives of Bondo had to deploy locals. There were only two County Councils then for the bigger ones, and the small towns were in the other Sub Counties like Yala and Gem and Ugunja in Ugunja and Ukwala in Ugunya Sub Counties.

Members have talked about the injustice and I want to assure Members that in our deliberation with the Board, we have been concerned about the balancing of the Sub Counties and if Members could have gone through the list which has been attached, the full lists are here.

At annexure number 6, but before I reach there, there is this letter which was written by the CEO, Mr. Lubalo on 21st of October, 2016 there is a full list of Members that were absorbed by the County Government of defunct local authorities that is the next annexure and then there is a full list of the new employed staff by the Executive from March 2013 to date, the list that Hon. Willis was sent to bring a statement to bring the policy Committee.

It is here and it is annexure number 6. And it starts from number 1-500. The last page, 562, the details of Members that have been deployed are clearly captured. There are female, male, Sub- County, job group and the Wards are also captured for those who come from this particular County, so everything is here.

What I want to say is that we did not come up with the recommendations as have been noted by Hon. Ndonji, reason being the new rules that we table Reports as has been received by the Executive. That is what we have done and I want to say that all information regarding the questions that have been raised is here.

The newly employed staff from the Board is here and is up to date up to the time that we concluded. At the register here maybe they are so many and maybe not all of us took time to go through everything but Members freely talked on this and raised a concern that is a concern of us all.

The House rose at 10.49 p.m.

I want to agree that the Wage Bill is high, when we were engaging the Board we found out that the Governor has stopped the employment, there was some embargo that he has put to a stop employment of new staff because of this Wage Bill. One thing that I have noted is an increment that has really shocked the Executive and I think things have been ironed out because it was just one day payment.

Otherwise, without much ado, I really want to appreciate the Hon. Membership of this House and I want to pray that whatever little that the Hon. Elisha Okuku has should not be taken to the Hon. Eric Ndonji but we are all equal before the eyes of God. I want to pray to God that this is passed as it is. Once again, thank you.

The Temporary Deputy Speaker
(Hon. Okello): Before I put the question, allow me to announce that when we adjourn, the House Business Committee will be required to meet immediately in these Chambers.

(Question put and agreed to)

MOTION

ADJOURNEMENT

There being no other business for this session, this House stands adjourned till 2.30 p.m. today.

2016 SIAYA COUNTY ASSEMBLY DEBATES

WEDNESDAY, 16TH NOVEMBER, 2016

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

[Hon. Deputy Speaker (Hon. Adera) in the Chair]

PRAYER

PAPERS

Hon. Awuor: Thank you, Mr. Deputy Speaker, Sir; I am on my feet to lay on the Table of the House, reports of;

i) The Auditor General on the Financial Operations of Siaya County Assembly for the period 1st July, 2014 to 30th June, 2015.

ii) The Auditor General on the Financial Statements of the County Government of Siaya for the year ended 30th June, 2015

Hon. Deputy Speaker: Hon. Omondi!

Hon. Omondi: Thank you, Mr. Deputy Speaker. I am on my feet on behalf of the Chairperson, Committee on Agriculture, Livestock and Fisheries to lay on the Table of the House a report on the Construction of the District Livestock Production Unit-Rarieda sub-county at Aram market. Thank you.

Hon. Deputy Speaker: Hon. Zilpa Omondi, you had communicated to the House Business Committee that you would be ready to debate this report tomorrow in the afternoon session, is that true?

Hon. Omondi: Mr. Deputy Speaker, Sir, I was just asked to lay it on the Table but if the Members are ready, it can be debated because as a Committee we

have gone through it and are satisfied with the content.

Hon. Deputy Speaker: Okay, we will debate it tomorrow in the afternoon session.

Hon. Omondi: Thank you.

Hon. Deputy Speaker: There are two documents here; the Auditor General Report on the Financial Operations of Siaya County Assembly for the period 1st July, 2014 to 30th June, 2015 and also the Auditor General Report on the Financial Statements of County Government of Siaya for the Year ended 30th June, 2015. Next order!

STATEMENT

WATER HYACINTH

Hon. Munda: Thank you, Mr. Deputy Speaker, Sir. Pursuant to Standing Order 40 (2), I rise to seek a Statement from the Chairperson of Agriculture, Livestock and Fisheries regarding the water hyacinth weed menace which has in the recent past had an adverse socio-economic impact on people living around the affected beaches in that it interrupts local subsistence fishing and also blocks access to beaches thus affecting the livelihoods of those who depend on fishing for survival.

The weed has also had an impact on the environment as it interferes with water treatment, irrigation and supply. The weed has specifically affected beaches in Siaya County like Kokech, Kadedi and

2016 SIAYA COUNTY ASSEMBLY DEBATES

Kogonga where fishermen have been greatly aggrieved.

In the statement, the Honorable House wishes to beseech the Chairperson to explain;

1. measures that the Siaya County Government has taken to manage or curb the said weed.
2. if there are no immediate plans in place, what alternative measures or incentives does the Government have for the people who rely on fishing for their daily bread. Thank you.

Hon. Deputy Speaker: Thank you. Hon. Members, I am being asked why I have not committed the reports from the Auditor General to the necessary Committee. It is a common practice here that even if the Speaker does not mention, it is automatic that it will go to the relevant Committee.

That has been the practice, we can either do it express or even if we don't do it express, normally the Committees that are concerned should always be aware and are always given the opportunity to handle the documents, but for the avoidance of doubt, the two documents will go to the Committee of PIC and PAC. Next order!

MOTION

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, I believe we have exhausted our debate for the day and there is a report that has been scheduled for tomorrow afternoon session, we would have debated it but we want to give Members ample time to go through the report so that when we come tomorrow we can have a constructive debate.

We debate on what we know and for that reason the House adjourns until tomorrow at 2.30 p.m.

The House rose at 2.45 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

THURSDAY, 17TH NOVEMBER, 2016

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

[Temporary Deputy Speaker (Hon. Abayo) in the Chair]

PRAYER

NOTICE OF MOTION

STATUS OF THE CONSTRUCTION OF
DISTRICT LIVESTOCK PRODUCTION UNIT-
RARIEDA DISTRICT AT ARAM MARKET

Temporary Deputy Speaker

(Hon. Abayo): Chair on Agriculture, Livestock and Fisheries, Hon Agoko!

Hon Agoko: Thank you, Mr. Temporary Speaker, Sir, I would wish to move a Motion: - THAT this House adopts the report of the Committee on Agriculture, Livestock and Fisheries on the status of the construction of district Livestock production unit-Rarieda sub-County at Aram market.

Temporary Deputy Speaker

(Hon. Abayo): Give them Notice.

Hon. Agoko: I am giving a Notice, Mr. Temporary Speaker, Sir.

Temporary Deputy Speaker

(Hon. Abayo): You said you are moving a Motion.

Hon Agoko: Ooh, that this House adopts a report of the Committee on Agriculture, Livestock and Fisheries on the Status of the Construction of District Livestock Production Unit- Rarieda District at Aram Market.

STATEMENT

COUNTY FLAG AND EMBLEM

Temporary Deputy Speaker

(Hon. Abayo): Hon Walter Okello, do you have permission to present this Statement?

Hon. Okello: Thank you, Hon.

Temporary Speaker, Sir. I rise to present this Statement on behalf of Hon Kadera; Pursuant to Standing Order 40 (2), I rise to seek a Statement from the Chairperson of Public Administration and Governance regarding the County flag and emblem. The Assembly passed the Siaya County Flag and other Symbols Bill, 2013 on 11th November, 2013 and the same has neither been repealed nor amended.

Apparently, the County Flag adopted by the House on the above date is different from the one being flown at the County Headquarters. The emblem mounted at the Governor's dais is also different. In the Statement, the Honorable House wishes to beseech the Chairperson aforementioned to explain;

- what legal instrument does the Executive rely on to fly the flag at the County Headquarters?

- Why are the County Flag and the emblem different from the one that was adopted by the House in 2013? Thank you.

Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. Awour, do you want to give a Statement?

Hon. Awour: Not really, Mr.

Temporary Speaker, just a concern on the last Statement that has been made, I think that this Statement to be directed as had been requested by Deputy Speaker, Hon. Stephen Kadera, that it be directed to the Committee on Governance and

2016 SIAYA COUNTY ASSEMBLY DEBATES

Administration, but now I realize it should go to Legislation and Delegated or Legal Affairs.

Temporary Deputy Speaker

(Hon. Abayo): Okay, Hon. Members. The Chair notes what Hon. Awour is raising, but I wish to inform this House that before Delegated Legislation, there is already a process to be carried out and I wish to direct that (well, this is appropriately designated for Public Administration because it originates from that department).

I wish to direct that now that there is work progress on the same, and that what is being used is different from what was passed as per the spirit of this Statement, I wish to direct that the Committees on the Delegated Legislation and Governance give us a way forward on how they are going to proceed with this particular process. Next order!

MOTION

STATUS OF THE CONSTRUCTION OF
DISTRICT LIVESTOCK PRODUCTION UNIT-
RARIEDA DISTRICT AT ARAM MARKET

Hon. Agoko: Thank you, Mr. Temporary Speaker, Sir, I wish to move a Motion:-

THAT this House adopts the report of the Committee on Agriculture, Livestock and Fisheries on the Status of the construction of the District Livestock Production Unit- Rarieda District at Aram Market

PROJECT BACKGROUND

The Ministry of Agriculture, Livestock and Fisheries, directorate of Livestock, in the national development budget for the FY 2011/2012 had a proposal and an allocation for the construction of a district livestock production Unit-Rarieda district at Aram

market. The project was tendered by the District Livestock Production Officer as the client- tender number RAR/DLPO/2011-2012 and eventually procedurally awarded to one Kings Logistics limited- a construction company- for execution- for a sum of ksh.4, 106,327.00. The project execution commenced on the 15th January, 2013 and was scheduled for 16 weeks to be completed by the 16th May, 2013. The work was done and completed in April, 2014.

With the advent of Devolution, after the 1st election under the New Constitution of Kenya 2010 and according to Part II (1) of the 4th schedule of the Constitution of Kenya 2010, read together with the guidance of the Transition to Devolved Governments Act 1 of 2012 and related legislations on transition, the County Government of Siaya inherited all the assets and liabilities relevant to this function.

The construction of the district livestock production unit in Rarieda district at Aram market was equally handed over to the County Government of Siaya as asset and liabilities arising there from.

Mr. Temporary Speaker, Sir, after 13 weeks of work, and at a 99% of work done, the State Department of public works (National Government) certified 66.5% payment for the contractor. The contractor confessed to have received the aforementioned 66.5% payment amounting to kshs.2,732,800 via letter ref number LP/RAR/DUV/19/VOL1/24 dated 24th April, 2014 from the state department of livestock production (National Government) in two installments of kshs.1,400,000 and kshs.1,332,800.

2016 SIAYA COUNTY ASSEMBLY DEBATES

The balance of kshs.1, 560,287.00 was to be honored by the County Government of Siaya through the Department of Agriculture, Livestock and Fisheries- as per the foregoing legislations. On the 23rd April, 2014, the County Government of Siaya, through the Sub-County livestock production officer in Rarieda Sub County acknowledged the transfer of this project to the County Government and instructed the contractor mentioned herein that his pending dues of kshs.1, 560,287.00 were being processed by the County Government of Siaya.

All the relevant documents to facilitate the transaction had been forwarded to office of the County Secretary through the County director of Livestock Production with copies to the chief Officer, Department of Agriculture, Livestock and Fisheries.

The District Livestock production unit in Rarieda was completed and is currently under use by officers from the Department of Agriculture, Livestock and Fisheries in the County Government of Siaya. However, the contractor of the said building (Kings Logistics limited) has not been paid his pending dues totaling kshs.1, 560,287.00 to date. This delay and the valid concerns of the contractor is what informed the intervention of this Committee via a Statement request dated 16th June, 2016 by Hon. Leonard Oriaro, MCA Central Alego.

INTRODUCTION

During the Afternoon sitting of this honorable House held on 16th June, 2016, Hon. Leonard Oriaro, MCA-Central Alego rose on Standing Order no. 40 to seek a Statement from the Chairperson of the Committee on Agriculture, Livestock and Fisheries on the construction of the

District Livestock production Unit-Rarieda District, at Aram market.

The Statement sought responses on the following:

1. Why there has been a delay in payment of Kshs. 1,560,287 being the outstanding balance to KingsLogistics Limited who was contracted to do the work.
2. Reasons for failure to pay the outstanding balance owed to the contractor.
3. Challenges if any experienced in processing the payment.
4. When the same can be paid.

The Honorable Speaker committed the Statement to the Committee on Agriculture, Livestock and Fisheries, which was required inter alia to seek the response from the County Executive and report to this Honorable House. Mr. Temporary Speaker, Sir, I would like to skip page 5 and go to page 6.

ACKNOWLEDGEMENT

The Committee appreciates the office of the Speaker and the office of the Clerk of County Assembly of Siaya for the support and facilitation extended to the Committee in execution of its mandate.

STRATEGY ADOPTED

This Committee wrote to the CECM Finance, Economic Planning and Vision 2030 on 18th July, 2016, and the CECM Agriculture, Livestock and Fisheries on 28th September, 2016, on the objectives of the Statement. The details of these responses were then analyzed and discussed for the composition and adoption in this report.

SUBMISSIONS BY COUNTY

EXECUTIVE

Submissions by the CECM

Finance, Planning and Vision 2030

The Committee did seek a response from the CECM for Finance, Planning and

Vision 2030 on 26th July, 2016 on the objectives of the Statement as indicated earlier. The response was as follows;

-The Department is yet to be presented with the pending bill for consideration and that they are consulting the relevant Department to get the necessary details.

Submissions by the Ag CECM

Agriculture, Livestock and Fisheries

The Committee proceeded to write to the CECM Agriculture, Livestock and Fisheries on 28th September, 2016 on the issues raised by the same Statement and the response was as follows;

1. The total contract amount for the project was Kshs 4,106,327 and two payments were made of Kshs 1,400,000 and Kshs. 1,332,800.00 totaling to Kshs. 2,732,800.00. The payments were made by the state Department of Livestock production.
2. The balance of Kshs. 1,560,287.00 was inherited by the County Government of Siaya, Department of Agriculture in line with the transition act and the Constitution of Kenya 2010 and is currently using the office building and committed to honor the dues.
3. The Directorate of Livestock has made several attempts to ensure that the Contractor is paid for the work done and even went further to furnish the office of County Secretary with copies of correspondence and supporting documents.

Attempts by the Department of Agriculture, Livestock and fisheries to have the item factored in the various FYs budgets i. e FY 2014/2015 and FY 2015/2016 did not bear any fruit since it was being omitted at the budget making process and due to the frustrations, no attempt was made in FY 2016/2017.

KEY FINDINGS

Having gone through the correspondences between the contractor and the Executive arm of the County Government, and the internal correspondences within the relevant Executive Departments, the Committee makes the following findings:

1. The project was contracted to Kings Logistics Company by the National Government department of Agriculture in the 2012/2013 financial year at a total of Kshs. 4,106,327.000.
2. The County Government of Siaya through the Department of Agriculture, Livestock and Fisheries inherited two office block buildings from the National Government for their use in Ugunja Sub-County and Rarieda Sub-County with pending bills during the FY 2013/2014.
3. The project was handed over before full payment was done which was unprocedural with respect to what the District Accountant had indicated to the inspection Committee during the site meeting held on 5th March 2014 via minute No.05:03:00.
4. The livestock production unit office building is currently being used by the County Department of Agriculture, Livestock and Fisheries staff from County Government of Siaya.
5. The Committee finds that the total amount of money owed to the contractor- Kings Logistics limited- by the County government of Siaya, department of Agriculture, livestock and fisheries is kshs.1, 560,287.000.
6. The Committee finds that pursuant to the transition to devolved Government Act 1 of 2012 and the Constitution of Kenya 2010 part 2 section 1, the Department of Agriculture, Livestock and Fisheries of the

2016 SIAYA COUNTY ASSEMBLY DEBATES

County Government of Siaya owes the contractor (Kings Logistics limited) a total of kshs.1, 560,287.000 being outstanding payments for the construction of the livestock production unit for Rarieda District (now Rarieda Sub County) at Aram market.

7. The Committee also finds out that the Department of Agriculture, Livestock and Fisheries had made several attempts to have the contractor paid by factoring the outstanding bill in their two consecutive FY budgets proposals despite the denial by the department of Finance.

RECOMMENDATION

1. As confirmed by the Committee, the building was satisfactorily done and is currently in use by officers of the County Government of Siaya department of Agriculture, Livestock and Fisheries. The Committee therefore recommends that this House compels the Department of Finance, Economic Planning and vision 2030 to pay the Kings Logistics Company the total outstanding amount of money ksh.1, 560,287.000 owed to her.
2. The Committee also recommends that this House through the Budget and Appropriations Committee and the Committee of Agriculture, Livestock and Fisheries to ensure that the Department of Finance and Economic Planning factor this bill and any other relevant outstanding amount of similar case in the Supplementary budget for the 2016/2017 Financial year.
3. The Committee recommends that, during budget making process, proposals from relevant departments should be keenly analyzed and investigated before

they are rejected. It would be better if the Budget Committee would consult relevant Departments before deleting proposals from particular Departments to avoid blame game amongst users or clients or client departments and Budget Committee.

On behalf of the Committee on Agriculture, Livestock and Fisheries and pursuant to standing Order 200(e),(g) it is my pleasant duty to table the Committee response on Honorable Leonard Oriaro's Statement. Mr. Temporary Speaker, Sir, I rise to request Hon. Osuri to second.

Hon. Osuri: Thank you, Mr. Temporary Speaker, Sir; I rise to second the report.

Temporary Deputy Speaker (Hon. Abayo): Thank you, Honorable Members, I now propose the question which is:-

THAT this House accepts and adopts the report of the construction of the District Livestock production unit at Rarieda District, Aram, the now Rarieda Sub – County

Hon. Oriaro: Thank you, Mr. Temporary Deputy Speaker, Sir, I am very pleased. I pray you confess on the onset that the words by the Committee on Agriculture et al which has its origin as mine, which was tabled while I was away is a true reflection of the feelings I had when I rose on behalf of one George who happens to be the contractor someone had alerted me about.

It is my prayer that this Report in its entirety would be a small scale representation of such other concerns. We know the contractors have played their part and are now walking up and down to be paid so in the address of this Report, the

spirit should be that other Kenyans, be they from the Siaya County or otherwise, their concerns should be addressed as this Report ably finds the case of the Aram Livestock building.

I agree with all the findings except there is one area that I would seek the concurrence of this House to think twice about. In the last recommendation, it is common knowledge especially on the platform of good governance as in Constitution of Kenya 2010, that the Budget making is indeed a process. It is an event starting anytime from the month of August of any given year by having public hearings and from public hearings it is expected that the Executive communicates with the House for adaption of the statutory papers. Some of the papers we know of are Annual Development Plan and I can skip up to the County Fiscal Strategy Paper.

In making such documents there has to be an executive resolution over them before they are brought here for adoption by the House. One of which it is expected that each department comes out on credible grounds to defend their projects that should be within the budgeting scope, such that when finally we are through with the County Fiscal Strategy Paper, in a nutshell, going by the latest amendment of the PFM Act as it stands over 99% that is the Budget. So when it is brought on the Floor, it is a participatory product of the Executive in its entirety.

When it is said here that the Committee of Budget deletes certain proposals, to me this is unparliamentary whether in English law or the Indian law which has been adopted worldwide including in the US Congress. So blaming the Committee of Budget for deleting

certain areas to me this would prove unparliamentary on our part because if the Executive members are improperly in our place then we are put more of in a rush moment to do our things so that the Budget policy as it stands finally and the Budget and Appropriation law as we enact it is very valid so I challenge the Executive at departmental levels to be assessing that which should be part of budgetary allocation such that the Assembly plays its part very clearly. I support.

Temporary Deputy Speaker

(Hon. Abayo): Thank you Hon. Oriaro for your maiden speech since you jetted back to the country. Hon. Munda.

Hon. Munda: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me chance to also add my voice to this important Report. I must confess that I was there when this building was being done.

Temporary Deputy Speaker

(Hon. Abayo): The Chair for Public Administration and Governance seems to be having an intervention.

Hon. Awuor: Sorry, I just wanted to go outside.

(Laughter)

Hon. Awuor: The Hon. Member for Yala you know the procedures for this House. If you want to excuse yourself you need not distract the Speaker on the Floor. Hon. Munda, please continue.

Hon. Munda: Thank you, Mr. Temporary Deputy Speaker, Sir; I was saying that I was there when this building was coming up until its completion. It was done to the required standards. I do sympathize with this contractor because he did a good work; he used a lot of money. He even told me that he procured a loan from the bank and got it but when it came

2016 SIAYA COUNTY ASSEMBLY DEBATES

to payments it was something else. I do sympathize with this contractor a lot and it is my prayer that this time even if the House does as I think it will then he will be paid this time round. The contractor came to me several times, I intervened and tried as much as possible to see to it that he was paid but my intervention brought nothing.

Let me take this opportunity also to thank...

Hon. Awuor: Thank you, Mr. Temporary Deputy Speaker, Sir, am a bit perturbed because the Hon. Member from his contribution, it seems like he had an interest in the matter. I think he should have declared the interest that he has on this contractor. I think I am seeking your indulgence to get it right on whether the Member is contributing has an interest with the contractor.

Temporary Deputy Speaker
(Hon. Abayo): Thank you, Hon. K'Awuor. Hon. Members you realize that the matter at hand is a livestock production unit built at Aram Market, from my knowledge the Hon. Member on the Floor sits in this Assembly as an Hon. Member that represents West Asembo Ward where Aram is located so I want to believe that the only interest the Member has is the fact that Aram is in his Ward but I give him the opportunity to declare if he has any other interest. Hon. Munda, do you any interest on this matter other than the said issue?

Hon. Munda: Mr. Temporary Deputy Speaker, Sir, I don't have any other interest it's only that the building is in my Ward and I just sympathize with the man because the delay is just too much. It was completed in 2014 and to date he has not been paid all his money and...

Temporary Deputy Speaker
(Hon. Okello): The Hon. Member for Yimbo East.

Hon. Okuku: Mr. Temporary Deputy Speaker, Sir, is it in order for the Hon. Member on the Floor for West Asembo to address this House and yet we know very well the dressing code for this Assembly. He is not properly dressed.

Temporary Deputy Speaker
(Hon. Abayo): Hon. Elisha it had not come to the attention of the Speaker that the Hon. Member was inappropriately dressed and now that you have raised it the Speaker will consider that matter shortly and give an appropriate ruling as to whether the Hon. Member is appropriately or inappropriately dressed. Hon. Munda, please wind up.

(Laughter)

Hon. Muhula: Point of Order!
May I put my sentiments across to you that this is the second time a sitting Speaker is taking this matter lightly. Do we take this one as a precedence that is being set for this House that any Member can dress anyhow and come to this House. Could you give a clear guidance to this Hon. House?

(Applause)

Temporary Deputy Speaker
(Hon. Abayo):): I think the matter being raised is an important matter of procedure and the rules of this Assembly which other Members are aware of. We need not to be reminded on the nature and design of our attire be it for the gentlemen or the ladies so, I don't think it is necessary to give any further guidance or ruling on whether Members should continue wearing the way

they have been wearing for the last four years while in the Assembly.

Hon. Munda you have a final opportunity to finalize on what you are saying.

Hon. Munda: As I was saying I sympathize with this contractor and this time I know he will get paid. We are aware that this building serves the whole of Rarieda it doesn't just serve West Asembo alone and if it is a matter of payment it should be done by the Executive Budget and not Ward Budget because it will eat into West Asembo's budget. Otherwise I support.

Temporary Deputy Speaker

(Hon. Abayo): Hon. Munda, the Speaker has just noticed that you have folded the corner of your shirt to look like a tie. Allow me to rule straight away by saying next time let's all be careful.

Hon. Muhula: Thank you, Mr. Temporary Deputy Speaker, Sir. My very big concern as much as I would want to sympathize with the contractor and the Member for West Asembo is as follows.

This cry and the suffering and the predicament that this contractor has had for this past years was not brought to this House by the Hon. Member representing West Asembo but it was brought to this House by the Hon. Members representing Central Alego. Am aware that Hon. Oriaro's kin live in Asembo but I did not know that his interest would also be in West Asembo. You have people, who live in West Asembo, Isn't it? Unless he is disowning his kinsmen in Asembo.

The most interesting thing...

Temporary Deputy Speaker

(Hon. Abayo): Hon. Oriaro your microphone is blinking.

Hon. Oriaro: On a Point of Order or clarity, the Member is alleging that it is

only because of my kinsmen and strata that I brought up this matter. I am a renowned person even online; the matter first came to me via my Facebook account. I did not know the person I prompted him to furnish me with everything and that which he had furnished me with, I copied and it is out of its content that I generated a Statement so I have no relations with him, I have not even seen that man face to face sincerely God knows everything.

Temporary Deputy Speaker

(Hon. Abayo): Thank you Hon. Oriaro your point is made.

Hon. Muhula: I never said that this person is a kinsman of Hon. Oriaro; I said some of his kinsmen live in Asembo. This House should get me well. My concern was, the Hon. Member for West Asembo was not the one who brought this petition but that was by the way, the most critical thing is the recommendation that the Hon Chair for Agriculture is bringing to this House.

There are some numbers that are cited in the Report from the Constitution of Kenya and I don't know what this means because I was trying to look at the Constitution of Kenya section 221 but I could not get what is stated in the Report. If you go to the relevant key findings of number 2 roman 2 of the County Government of Siaya it is confirmed that the office block was finished and it is being used.

The audacity of the Agricultural Committee instructing the Executive through the Department of Agriculture to pay is not consistent with the Transition Government Act which they have cited here without looking at the transition to devolve the Fourth Schedule of the Transition phases from k-q which talks about inheritance of assets and liabilities of

different counties but with respect to validation of these debts before they are paid. To date, there is no inherited debt but the way that they even feigned to pay the staff inherited from the outstanding balance that they had simply because there is an issue of validating whether these debts are factual before they are paid so there is no any way that they can be factored in the payment for the County Government till we get a clearance from those authorities that were charged with the issue of looking at this one.

When you come down to the subsidiary legislation, number 45 of 2013 under function 5 cites the same thing that again deter the County Government from going ahead and paying the debts that they inherited. The reason why we again after this fiscal strategy paper we looking for the Sectoral working authority to look at the inheritance and what the sectors want to do and we bring them to the relevant committees.

We always want these things to be interrogated at the Committee level. The Committee of Agriculture coming in and saying that this debt has stayed from 2013 and 2016 that would mean that there is inconsistency in the valuation and analysis of the Fiscal Strategy Paper at the Sectoral working body because they would have detected this thing at the year 2013/2014, 2014/2015, 2015/2016 and not the year 2017/2018.

There is something that is lacking in the Agricultural Department, that one does not mean am saying there is incompetency. I am saying that there is something that they overlooked or the Agriculture Department did not furnish that information in the Fiscal Strategy Paper or even in the development plan. I would want that they be looked upon but I

want to say this for the financial basis that it cannot be very easy for the Budget Committee to further this thing until and as when we will get justification from the relevant authorities and departments that actually the County Government is cleared and can go ahead and pay.

It is on this basis that we say, it has no authority to compel the Department of Finance to pay without the relevant certified information that cleared that payment to be paid for this as much as I would wish to support this Report for having brought this issue of debt to the limelight unsatisfactory completion and of course use of that building in Rarieda.

I still want to see that the Committee on Agriculture follows with the Sectoral line the relevant County Departments in the relevant Ministry to confirm with the Finance Department to give us a conclusive information whether this structure is very fine and certified for payment then from there they come back to this House, and we shall support the House to compel those people to pay this person if indeed he has completed this structure. I rest my case.

Hon. Okuku: Thank you, Mr. Temporary Speaker. I would want to wish that we have consistency in the County Government of Siaya. We have what is called, assets and liabilities, which were inherited from the defunct local authorities. I happen to sit in the PAC and PIC Committee in this Assembly and when you look at the liabilities and assets list from any perspective, you will find that the matter at hand was not listed as debts that the County Government inherited from the Local Authorities. And so it happened with the contractor who bid for construction works at Got Matar in my Ward. I want to say and conclude that

maybe we have a mess somewhere, as a County Government we are missing some very important and vital activities and pattern and structures of assets and liabilities should be looked at afresh.

Apart from the services that were being offered by the legal team, the debts that were captured for the County are from the defunct local authorities. I don't know if the team that was looking at this during the transition from the local authority to the County Government feared that the legal team could take legal action against them and that is why the legal debts were captured because they are so many and they cut across the County of Siaya.

I want also to support Hon. Muhulah that these debts, before we recommend and approve that they be looked at, verification must be done. The transition was not clear and that is why we are where we are today. A lot should be checked because as we sit here you will find that even the meaningful workforce of Siaya County from the defunct local authority has some gaps.

I want to rest my case and to say that, as much as we support the report, before verification is done, it will be difficult for the Budget Committee and any other relevant Committee to factor this debt in any budget and I therefore rest my case. Thank you.

Hon. Omondi: Thank you, Mr. Temporary Speaker. I am a Member of the Agriculture Committee and we unanimously made those recommendations. This contractor has been in communication with the County Government long before Hon. Oriaro brought this issue to the House.

During that period even before this issue landed here, somebody should have taken time to go and verify what this man

was complaining about! But apparently, nobody seems to have cared to go and look at the facts the way this contractor was putting them across. The Hon. Member for Asembo West has indicated here that in his own way he tried to intervene to have this matter sorted out, nothing came out of this intervention. Until now when the issue was seen by Hon. Oriaro on his Facebook is when he came up with the Statement of this issue.

We have talked to the CECM and finance, he said that the issue had never been brought to his attention and yet there are communications, it is unfortunate that the photocopier of this Assembly has problems and maybe you cannot read those analyses. There has been communication and these communications he should have taken them seriously.

The Agriculture Department has stated that they have been requesting for a supplementary funds so that these issues are sorted out. Somebody should have taken his or her time to find out what is going on. Now, in their failure, they failed in their duty and this is why we are saying that this House should contact them to come ...

Hon. Muhulah: Point of information, Mr. Temporary Speaker!

Temporary Deputy Speaker (Hon. Abayo): Yes, Hon. Member for West Alego!

Hon. Muhulah: Mr. Temporary Speaker, the responsibility of verifying the debts of the County does not lie with the County Executive; it lies with another group that was also formed by the Act of Parliament called the Transition Authority. Now that they have gone, there is a secretariat that is supposed to be looking at this.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Number two, the Hon. Member for East Yimbo, stood and said that he sits in the Public Accounts Committee and for the three consecutive years, of those who are owed money by the County Government of Siaya, he has never seen any listing of Kings Logistics as one company owed money by the Siaya County. So that means that there is already a mismatch there, he is missing out from the debt list.

It is not the responsibility of this House to go look for those who have debts and those who do not have! That person is the one to follow up with the relevant department then get to know whether his debt is listed in the list of Siaya County. To date, if people were to be paid, possibly he will not be paid because his name is not in the list! So, can he start first by confirming with the relevant departments whether surely he is owed money by Siaya lest he not be left out when the payment is done.

Temporary Deputy Speaker

(Hon. Abayo): Hon. Zilpa, I want to believe that the information given by Hon. Muhulah will be very useful to you and also to the other Members of the Committee. Please continue!

Hon. Omondi: Given what Hon. Muhulah has said, this is a man who had done their work but doesn't know the procedures for claims of payment. Somebody even from the Executive should have told him the steps that he should take, that was not offered and that is why the blame still lies with the Executive!

He should have been offered advice, go back and find from the Transition team whether your debt was captured in. This is why I am saying, these people failed this man and I think he is going to pay dearly if he took a loan and

therefore these people should be told that they are responsible for this man's problems. Thank you, Mr. Temporary Speaker.

Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. Vice Chair, Agriculture!

Hon. Ochieng: Thank you, Mr. Temporary Speaker, for giving me this chance. I want to start by thanking the Agriculture Committee for having worked hard to see that this report is brought in this House. It was not an easy task as some other Hon. Members may think.

One, I want to say that the contractor did his work to the satisfaction and even right now, the County Government is really enjoying the services of those offices.

As much as Hon. Muhulah was saying that he should be cleared, the County Government should stop using the building so that it clears the bills owed by the contractor.

I want to build on what Hon. Oriaro has just said here that he doesn't have any relationship with the contractor. Last Friday, it happened that the same contractor was here in Siaya and I met him and he told me that he has never met Hon. Oriaro and that Hon. Oriaro is just a friend on Facebook and a friend connected him to Hon. Oriaro. I want to clear Hon. Oriaro that he has no relationship or interest on the contractor.

As we were working on this document, there are some communications that were taking place between the contractor and Sub County Agricultural Officers by then. Meaning there is a clear indication that this contractor has not been paid and as we speak now, the people who were using the facility have been communicating to the Finance Department to pay the balance to the contractor.

2016 SIAYA COUNTY ASSEMBLY DEBATES

I just wonder how and who should again come and claim all these balances if the users of this facility are communicating and are meeting. I think this is a way of just taking this contractor round while we know very well that the contractor should be paid the remaining balance. If you check on this report, there are clear communication between the contractor and the Agriculture Department to ascertain that this contractor should be paid this amount.

I want to urge the Hon. Members of this House, that just like any other business man, this person took a loan from the bank and he is being frustrated and when we want to take all the legal procedures of this matter while the contractor did his part and completed the construction and handed over the building to the County Government then we are not doing something right to this contractor. Otherwise I support this report and I call upon this Hon. House to give him support so that this contractor can be paid. Thank you, Mr. Temporary Speaker.

Temporary Deputy Speaker

(Hon. Abayo): Thank you, Hon. Members, if there are no further contributions then we will call upon the Chair to respond to few issues that were raised in the course of the debate. Hon. Chair!

Hon. Agoko: Thank you, Mr. Temporary Speaker, Sir. I want to appreciate the Members for their contributions and concerns. I also want to appreciate the Members for the input they have given in this Floor. It's a fact that the Transition Authority was to validate the liabilities of the County Government and confirm the assets of the County Governments. This is a process that did not take place effectively and conclusively.

I want to appeal to this House, that we institute measures that will enable this County Government of Siaya break the stalemate so that we have contractors who supply, who offer services, who offer goods to the defunct local authorities and state departments that were devolved to the County Government be paid by Siaya County Government. Because as of now, you may be aware that many contractors may be declared bankrupt, may be having a lot of challenges and we need to come to their support as their representatives.

I request that this House looks at the annexes that are there, the correspondences between the Department of Agriculture and more particularly the Department of Livestock. Again you look at the budget proposals in the year 2014 that we have copies here annexed proposing to have this same amount factored to the budget but because of the validation, they were not approved.

I therefore want to appeal to this House that we initiate such processes to ensure the contractors are paid. Otherwise, I thank you so much and I call upon this House to support.

Temporary Deputy Speaker

(Hon. Abayo): Thank you, Hon. Members. I now put the question that this House adopts the report of the Committee on Agriculture, Livestock and Fisheries on status of the construction of District Livestock Production Unit-Rarieda District at Aram market.

(Question put and agreed to)
(Applause)

MOTION**ADJOURNMENT****Temporary Deputy Speaker**

(Hon. Abayo): Hon. Members, having exhausted the Business of the Order Paper of the day, the House stands adjourned till Tuesday, 22nd at 2.30p.m.

The House rose at 3.40 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

TUESDAY, 22ND NOVEMBER, 2016

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

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

PRAYER

PAPERS

Hon. Speaker: Chair, Committee on Governance!

Hon. Awour: Thank you, very much, Mr. Speaker, Sir. I am on my feet to lay the following reports as response Statements from the Executive.

1. Statement request by Hon. Elisha Okuku, MCA, Yimbo East on Administrative issues of the Siaya County Public Service Board.

2. To lay before this Hon. House the response of Omnibus report from the Committee on Governance and Administration on the following Statement requests;

a) Recruitment of Information Communication and Liaison Officers

b) Payment of salary arrears of the 21 Defunct Local Authority staff and retirees

c) Decentralization of Ward Administrators' offices

d) The fate of interdicted IFMIS staff

e) El Nino compensation
Thank you.

Hon. Speaker: Thank you. So, the House stand guided that the reports having been laid, copies should be availed to Members so that tomorrow you resume debate on the reports from morning. Yes!

Hon. Gare: Thank you, Mr. Speaker, Sir. Allow me on behalf of the

Chairman on Committee on Roads, Public Works, Transport and Communication;

1. to lay on the Table of the House the report of the Committee on Roads, Public Works, Transport and Commutation on unfinished projects in West Alego Ward.

2. to lay on the Table of the House the report of the Committee on Roads, Public Works, Transport and Communication on project management committee payment in Central Sakwa Ward.

Thank you, Mr. Speaker.

Hon. Speaker: We are supposed to have a report for the Committee on Implementation.

Hon. Oriaro: Thank you, Mr. Speaker, Sir. Allow me to lay on the Table of the House the report of the Committee on Implementation inquiry into the County of Siaya Agribusiness initiative fund and the corollary KCB Siaya Bank account.

Hon. Speaker: Thank you. Enough copies be availed for debate before end of the week. Yes, Hon. Chairperson for Health Services!

Hon. Were: Thank you, Mr. Speaker, Sir. Allow me to lay on the Table of the House the report of the Committee on Health Services on status of waste disposal at Akala and Kambare market. This is response to the Statement request by Hon. Peter Ombee, MCA, South Gem Ward.

Hon. Speaker: The same directive applies. The Speaker was informed that there is another Committee Report that is mature for laying, yes, Hon. Agoko?

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Agoko: Thank you, Mr. Speaker Sir, I wish to lay on the Table a report of the Ad hoc Committee that was looking into the issues that were raised by the MCA for East Yimbo, Hon. Elisha Okuku, on 26th of June on the status of the office of the CECM for Agriculture.

Hon. Speaker: Thank you, I think that because we have new reports, the House Business Committee to convene tomorrow after the morning Session to slot other report's time for debate, bearing in mind that our calendar same as Parliament Calendar of the National Assembly runs up to next week on Thursday.

Again CAF is planning for a get together in Naivasha on the 28th, so in the event that the CAF event proceeds as scheduled then it means the house might adjourn on Thursday but if it doesn't, we follow our calendar, which, means we need to go on recess on Thursday next week. Yes, Hon John Gare-MCA West Sakwa.

Hon. Gare: Thank you, Mr. Speaker, Sir, allow me to read a joint Statement request brought in by Hon Kawuor and myself that pursuant to Standing Order number 42, we arise to seek Statement from the Chairperson of Environment, Water, and Natural Resources on the shortage of water in Bondo Town and Yala Township Ward and Siaya County in general. In the Statement, the Chairperson should explain;

1. The origin of Water shortage currently being experienced, what the Department has done, or is doing to curb the situation, and timeline indicating when the Residents shall get reprieve from the adversity and start living their normal lives.

2. The cause of the ongoing strike by Sibo workers and the impact of the strike so far, it should further explain interventions, if any, that the Department has considered and possibly rolled out to restore normalcy in the Water supply system in the County. I thank you, Mr. Speaker.

Hon. Speaker: The Speaker considers that Statement request very urgent, water being a basic need. We want to know when the relevant Committee of Water can give us this report, preferably not later than Thursday this week. Chair Water? The Vice Chair, can any Member of the Water Committee give a commitment? If you don't I will just direct when we need the report back. Yes, Hon. Munda!

Hon. Munda: Mr. Speaker, Sir, I am a Member of the Committee, and I think you can give us about next week by Thursday.

Hon Speaker: Why Thursday? Why not tomorrow?

Hon. Munda: That is when I think they can get time.

Hon. Speaker: We give you time tomorrow (*laughs*).you can be exempted from the Morning Business after you run halfway....

Hon. Munda: I agree to it.

Hon Speaker: Thank you, so you give this report on Thursday this week. Some of the Statements you could just answer on the spot if we had functional Departmental Committees. So, the Speaker directs that you give the report on Thursday afternoon. I don't know if there is any other urgent Statement request that was put before this House which should we go on recess without being resolved would adversely affect this House?

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Oriaro: Mr. Speaker, Sir, a Statement that I had brought here and committed to the Committee on Finance over the issues of the retirees, it is yet to be brought and it was supposed to be within, at most a week .

Hon. Awour: Mr. Speaker, I think it is a response that we have brought here and I want to believe that that Statement was directed to Governance and Legislation Committee.

Hon. Oriaro: I am sorry, Chair; I was still nostalgic over American Sojourns.

(Laughter)

Hon. Gare: Mr. Speaker, Sir, I sought a Statement on whether the payments of the Project Management Committees in the Wards are being done and to date I have not seen a response.

Hon. Speaker: Which Committee was it committed to?

Hon. Minami: Roads, Mr. Speaker, Sir, I think I am a Member of the Roads Committee and the Chief Whip has just laid that report, and this is the response to question that he's asked, so the report was delayed.

Hon. Speaker: Good. So, Hon. Members whose questions have not been answered, kindly attend the Sessions to get your responses. Next order!

MOTION

ADJOURNMENT

Hon. Speaker: So, Hon. Members, very many Reports have been laid, requiring your interrogation and there being no other Business, we stand for Adjournment.

(Members stood on their feet for adjournment)

Hon. Speaker: Hon. Members, there being no other Business, this House adjourns until tomorrow, Wednesday the 23rd November, 2016 at 9.30 a.m. in the Chamber.

The House rose at 2.47 p.m.

WEDNESDAY, 23RD NOVEMBER, 2016

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

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

PRAYER**STATEMENTS**

Hon. Awuor: Thank you, Mr. Speaker, Sir. Allow me to give the response on request of Statement by Hon. Elisha Okuku on administrative issues of the Siaya County Public Service Board (SCPSB).

Here is a response from SCPSB dated 1st November, 2016 and is addressed to the Clerk titled, *Response to administrative issues of the SCPSB*:

I acknowledge receipt of your letter Ref: SC.ASS/COUNT/PSB/13 Vol. 1-66 dated 26th October, 2016 on the above subject matter.

The Board wishes to respond to the Statement made by Hon. Elisha Okuku on administrative issues of the board as follows:-

1. Whether the concluded interviews done online (18th and 19th October 2016) were done on delegation or with involvement of the full board members.

- a.) The provisions of the County Government Act No. 17 of 2012, Section 86 –on Delegation states that;
 - i. The CPSB may delegate, in writing, any of its functions to any one or more of its members and the County Secretary, County Chief Officer, Sub County or Ward Administrator,

City or Municipal Manager and Town Administrators.

- ii. The provisions of this part shall apply to the person to whom the powers are delegated under this section.
- iii. The Board has not concluded preparation of the delegation policy, however delegation is implied in that committee work on behalf of the board and they are appointed in writing by the Chairman of the Board to perform specific tasks

b.) Involvement of the Full Board in the recruitment.

Yes, the Full Board was involved; it is a universally accepted practice that Corporate or Public Organization Boards work through Committees on delegation. The Board operates through its Committees, which have been mandated by the Full Board to discharge its functions.

The Committees of the Board are each comprised of the Chair, two Members and a Secretary. Presently, the list of the Committee is as follows:-

- i. Human Resource Management Committee.
- ii. Recruitment, Selection and Compliance Committee.
- iii. Performance Management Committee.
- iv. Finance and Industrial Relations Committee.

2016 SIAYA COUNTY ASSEMBLY DEBATES

- v. Capacity Building, Authentication of Documents and Inter-Governmental Relations Committee.

The concluded interviews were prepared by the relevant Committee; that is Recruitment, Selection and Compliance Committee. The Committee performed the following tasks:-

- i. Shortlisted the candidates
- ii. Prepared the interview tools
- iii. Identified the venues for the interviews
- iv. Constituted the panels
- v. Handed over the above to the Secretary/CEO uploading on the website

The Full Board participates in Report writing at which members raise any point that might need clarification. The full board has the opportunity to ratify its Report during its meeting in a designated place.

c.) Documentary evidence in Committees and Full Board participation in recruitment process.

On delegation the lists of Committees and Membership are attached in the appendix

- i. On full board participation
- ii. Request for vacancies from the Executive presented to the Full Board meeting held on the 26th September 2016 via MIN: 06/26/76/09 2016
- iii. Report writing meeting on 24th - 26th October 2016 and attendance list signed by all members attached
- iv. Full board meeting held on 1st November 2016
- v. Documentary evidence supporting involvement of the board is attached.

2. Siaya County Public Service Board Charter.

The Board is yet to develop its Charter and has been relying on the following legal documents to support its functions;

- i. Constitution of Kenya 2010
- ii. County Government Act No.17 of 2012
- iii. Public Finance Management Act 2012
- iv. The employment Act 2007
- v. Leadership and Act amongst other laws and regulations relevant to our mandate.

The Board has so far prepared 9 Policy Papers and it is yet to prepare three more policy papers and Board Charter is amongst the ones to be prepared.

The attached list signed by the chairman, Hon. Joseph Aketch Donde is how the Committees have been constituted.

1. Human Resource Management Committee (promotion and discipline)
 - i. Mrs. Florence Oketch
- Chair
 - ii. Johannes Okere Wangach
- Member
 - iii. Dr. Nicholas Kut Ochogo
- Member
2. Committee of Recruitment, Selection and Compliance Committee
 - i. Rosemary Okumu
- Chair
 - ii. Dr. Nicholas Kut Ochogo
- Member
 - iii. Mrs. Florence Oketch
- Member

2016 SIAYA COUNTY ASSEMBLY DEBATES

3. Performance Management
Committee

- i. Johannes Okere Wangach
- Chair
- ii. Mrs. Florence Oketch
- Member
- iii. Ishmael Noo Onyango
- Member

4. Finance and Industrial Relations
Committee

- i. Mr. Ishmael Noo Onyango
- Chair
- ii. Rosemary Okumu
- Member
- iii. Dr. Nicholas Ogutu
- Member

5. Capacity Building,
Authentication of Documents and
Inter Governmental Relations
Committee.

- i. Dr. Nicholas Kut Ochogo
- Chair
- ii. Mr. Ishmael Noo Otieno
- Member
- iii. Rosemary Okumu Member
- Member

It is signed by the chair Joseph Aketch Donde. This is a response for a Statement raised by Hon. Elisha Okuku MCA for Yimbo East.

Hon. Speaker: I wanted to find out if there could be any supplementary questions on that response before we move to the next one. You will realize that we are doing things differently we are processing statements differently I agree with you as a legislature it is one of the worst because you want a representative of the people to talk on the behalf of a CCM in the House and indeed they just read the information they have gotten which could be factual or not and we want to hold the Chairpersons accountable but it is an issue that even the Senate is grappling with, the

national Assembly is even considering removing it but we have it.

Are there any supplementary questions? Yes, Hon. Muhula!

Hon. Muhula: Thank you, Mr. Speaker, Sir, indeed the system that we are presently using is not providing sufficient information that this House would want.

One, there is nothing that confirms the delegation process by the public Service Board to the few Members because I do not know up to this moment whether only 3 members can constitute a Committee of the County Public Service Board.

Secondly, according to the Chair Donde, he talks about implied concepts and for these concepts where there is a representation that is representing a legally constituted body that is mandated to look at recruitment and also possibly the capacity and promotion of the staff. We cannot say that only 3 people can sit representing a Committee to determine even the capacity at which people are supposed to be employed when the County Public Service Board confirmed that all this statute that they have put here they have cited here constitution of Kenya where they have not even said which obligation number that we need to do the reference.

There is County Government of Kenya Act, Public Finance Management Act, Employment Act, Leadership and Integrity Act which they have not even cited the implication number to support this.

We would really have wanted that the Hon. Chair of the board puts it in writing and even a copy via the appointment of these 3 people to be acting on behalf of PSB on these 5 tiers that they have put here. I think that one we will

2016 SIAYA COUNTY ASSEMBLY DEBATES

confirm much later otherwise for just a very scanty and casual response. We will still demand a lot of answers from the Chair of the Public Service Board. Thank you.

Hon. Speaker: Chair, are these issues you can address or you will take them home. Are they issues you will consult further or you can address?

Hon. Awuor: Just as has been stated by a Member of this Hon. House I want to seek your indulgence if we can still call the Chair of PSB to give more clarification.

Hon. Speaker: Yes, in your future engagements. We need to take up supplementary questions and get more clarification. I really feel for Members, it is very unfortunate it is not really meaningful. This is why to date people are saying we should not have done away with Question time because the CCM would have been here to answer questions but we must live with the Constitution we passed where there is separation of powers they don't come to the Assembly so you will have to continue engaging them and getting answers.

I also want to urge Members to where possible directly even without involving Committees seek some of these answers from the relevant officers.

Yes, Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Speaker, Sir, I don't believe that a response of this nature is an end in itself because of obstacles that can be annulled that can be avoided so easily going by the mandate of this Committee ubiquity involves generating a business out of their own motion.

To me away from the issues raised by Hon. Muhula, not necessarily stemming from Members, the Committee has got a

broad mandate. They can do investigative inquiry into this because they have all the freedom on earth and objectively Report on the same.

Hon. Speaker: That is well put actually if Committees are to effectively engage with the Executive in their counterpart departments, then we cannot have problems because arising from the answers given and the grey areas that are eminent in those answers, a Committee is able to engage further the institution to provide more answers. If it is established that they lied, that alone can be ground for action by this House using the powers vested on it. So, well put Hon. Oriaro. Committees you have homework to do.

Yes, Hon. Booker.

Hon. Minami: Thank you, Mr. Speaker, Sir, when I look at concern number 1, part 1, that asks whether the concluded interviews done on 18th and 19th October 2016 were done on delegation. I have not seen an answer whether it is yes or no. I have just seen someone quoting sections of the Constitution and the provisions but the answer for that part has not been given whether it was done on delegation or not.

I have just seen answers given about the County Government Act on delegation but the question has not been answered whether that process was delegated or not. I think that as a Committee it is a gap that they need to go back and find out well. Thank you.

Hon. Speaker: Hon. Chair do you think the Secretariat didn't put it in print and you have an answer whether it was on delegated basis or not. Can you address yourself to that gap cited by Hon. Booker. He is saying that the answers given do not affirm or deny whether recruitments were given on the basis of delegated powers.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Awuor: As has been said and as you have noticed, this is the report that was given to us it was not clear too, so given that we are going to answer it again I think we are going to engage the Chairman and the Members of the Board properly on this.

Hon. Speaker: Chair, I also feel for you because you are the first person we are experimenting this with but as a matter of fact as a Committee when you write to the Executive you are asking questions 1,2,3,4 and 5 but when they answer and they avoid question 5 you are at liberty to return it or tell them this is not sufficient, you have not answered question 3 or question 1 is not clear.

Nothing stops you from that because we cannot be garbage in garbage out so that anything you are given you just bring to the Assembly. You can still engage and even come here and say they answered like this but we asked them to clarify number 5 which they have not done to date. So we agree it is not clear.

Yes, Hon. Osuri!

Hon. Osuri: Thank you, Mr. Speaker, Sir, I am a Member of the Committee and if you look at part b, involvement of the full Board as far as recruitment is concerned, they did indicate that Yes the Full Board was involved. Thank you, that is what I wanted to clarify.

Hon. Minami: Mr. Speaker, Sir, I think he is right, if you look at part 1 of that thing whether the full interview were done on delegation or with involvement of the Full Board. I have just answered that the Full Board was involved but whether it was done on delegation they have not answered. That is what I was asking.

Hon. Speaker: You know you can involve the Full Board and not necessarily authorize delegation so let's be clear was

the Full Board involved in the recruitment exercise or was the Full Board involved in the advertisement and then the recruitment bit was done on delegation. A clear answer is needed on whether delegation was expressly provided for or not.

Is there any other supplementary question on the same?

Yes, Hon. Augo.

Hon. Augo: Thank you, Mr. Speaker, Sir, I am a Member of the Committee and when we asked the Board that question, the answer they gave to us is that the full Board was involved thereby one Member apologized for he was in a meeting in Mombasa and two members also texted the Chairman of the Board telling him that they will not be available so the Chair said that being they had apology not to attend they saw it right to go on because they were 3 and 3 of them were not available. He had even the texts.

Hon. Speaker: Hon. Zilpah.

Hon. Awino: Thank you, Mr. Speaker, Sir, I think what the Board is trying to say when they say the Full Board was involved, they have it on page 3 at the top I think this thing was done on delegation but they formed it as a Full Board. When they say that the Full Board participates in Report writing, at which point members raise any issues that might need clarification and then the Full Board has the final opportunity to ratify the report during its meeting in a designated place.

So I think that is where they are now bringing in the Full Board but maybe the delegation let them go for report writing as a Full Board then they ratified it.

Hon. Speaker: Any supplementary questions. Yes Chair of Governance, move to the next.

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Awuor: Thank you, Mr. Speaker, Sir, the next response is on statement request by Hon. Members and they are quite a number. Therefore the Committee of Governance and Administration in responding to statement request by members, I wish to read the responses. The document tabled on the Table of the House is a Report from the Executive containing the responses for the following statements.

Statement requested by Hon. Booker Minami on the recruitment of information communication officers and Liaison officers (page 1-2)

Statement requested by Hon. Leonard Otieno Oriaro on payment of salary arrears of the 21 defunct Local Authority staff and retirees (page 2)

Statement requested by Hon. Elisha Okuku on decentralization of Ward Administrator Offices (page 3-4)

Statement requested by Hon. Booker Minami Otieno on the fate of interdicted IFMIS staff. (page 4-5)

Statement requested by Hon. Willis Ochieng on El Nino compensation (page 6)

Mr. Speaker, Sir, this matter was referred to the Committee given that matters on/about/relating to the Public Service specifically and broadly fall within the mandate of the Committee which according to Standing Order 200 read together with the Second Schedule of the Standing Orders, entails but is not limited to:

“Ensuring the coordinating participation of communities in Wards in governance at local levels assisting communities and locations to develop administrative capacity for the effective exercise of the functions and powers and

public participation in governance at the local level.”

Response 1 is a letter from the Office of the Governor to the County Assembly Clerk and is dated 3rd November 2016 titled **request for statement on recruitment of information communication officers and liaison officers.**

This is in reference to your letter dated 13th October 2016 Ref: *vide reference no.* SCA/ADMIN/CORR/C.EXEC/16 VOL VIII -12

This is to inform you of the following findings in relation to the employment of two cadres of employees of the County Government, namely Information Communication Officers and Liaison Officers.

We give the Report on the Statement as requested by the Hon. Member in the same sequence that the issues were raised as follows;

1. We hereby confirm that indeed the County employed Information Communication Officers at the Ward and Sub County level but the County has not employed Liaison Officers at the said levels.
2. On recruitment, the posts for Information Communication Officers were advertised and the interviews were carried out by the Public Service Board as per the requirements of section 63 and 66 of the County Government Act, 2012.
3. Their terms and conditions of employment is on contractual basis pegged on the tour of duty of H. E. The Governor.

2016 SIAYA COUNTY ASSEMBLY DEBATES

The requisite qualification was the ability to effectively engage with the local citizens at a level that is friendly and nonthreatening so that the citizens can comfortably relate with them.

4. The duties of the officers *inter-alia* include;

- a. Gathering information from the people of Siaya about development needs at the Ward level. This goes beyond the former engagement carried out during budgeting.
- b. Providing citizens with information required from them in order to receive County Government Services.
- c. Acting as the first point of contact for citizens who wish to complain about County Government Services.

The roles do not conflict with those of Ward and Sub County administrators since these two offices deal with coordination of internal County Government projects and deal with citizen problems formally and mainly in offices.

5. We confirm that the officers are part of the County Government of Siaya established administrative structure and are not creations of the County Public Service Board. They only play a facilitative role to the Sub- County and Ward Administrators in order to

enhance engagement between government and the people.

This is the response to statement request by Hon. Oriaro **on salary arrears of 21 defunct local authority staff and retirees.**

This is in reference to your letter dated 8th August 2016, vide reference no. SCA/CORR/C.EXEC/16 VOL. VII – 107

1. Why there has been delay in the payment of salary arrears
There was no agreement between the National and County Governments as to who bears responsibility of liabilities of the defunct local authorities.
2. Reasons for failure to pay the money owed.
The response in number 1 above suffices.
3. Strategies that the County Government has put in place to contact the families of those retirees who have since passed on before getting their arrears and how they will be compensated.
We have used employees' records to identify their next-of-kin and mandatory details for records.

**UPDATED RESPONSES ON
REQUEST OF STATEMENTS
TABLED AT THE ASSEMBLY**

This is in reference to your letter dated 8th August 2016, vide reference no. SCA/CORR/C.EXEC/16 VOL. VII -107
Why more than 3 years of existence of Siaya County Government, ward operations have not been involved.

2016 SIAYA COUNTY ASSEMBLY DEBATES

The County Government of Siaya has established and operationalized the ward administration in accordance with section 51 of the County Government Act, by appointing the administrators who are in charge of coordination, management and supervision of the general administrative functions in their respective Wards.

I wish to further clarify that the Department of Public Service and Governance has fully devolved its operations to the decentralized units (wards and sub counties) for effective coordination and supervision of service delivery. However, there have been challenges with offices for the ward administrators and a provision for the construction of the same has been made in the 2016/2017 budget.

When the ward offices and operations will be decentralized to ward levels

As stated above, the prescribed arrangement was to have all the ward administrators operate in their respective wards of deployment; however different sub-counties have encountered hitches towards attaining the same.

We have made a new proposal in the current budget estimates through the department of public works for inclusion in this financial year's budget. In the meantime, looking into ways of having these officers share office space (where available) with national government of other government agencies. We have also proposed to purchase furniture and other relevant office equipment for these offices.

Why in the present arrangement, no facilitation is given to ward administrators to perform their official duties.

The department of Public Service and Governance has consistently strived with constrained budgetary allocations to

provide facilitation through sub-county administrators. However, it is worth noting that the stringent regulations imposed by PFM Act (Public Finance Management Act) have posed hindrance towards the realization of the same. For instance in the FY 2015/2016 budget, all the items in respective votes are procurable with the exception of daily subsistence allowances, travel and accommodation and national celebrations. In the previous FY, these votes were grossly underfunded because of the limitation of the departmental expenditure ceiling set by the Commission for Revenue Allocation (CRA).

In this FY, the department has put considerable funds in the appropriate votes to enhance facilitation, for instance; Sub-County Administrators and Ward Administrators have been allowed a monthly standing imp rest of Kshs. 30,000 and Kshs. 15,000 respectively.

The challenge of transportation had further been minimized through procurement of six vehicles for every Sub-County at a cost of Kshs. 27,559,650 million. The department equally acknowledges that a vehicle for a Sub-County may not be sufficient for effective ward administration; hence need to purchase motorbikes for the Ward Administrators.

**STATEMENT REQUEST ON
THE FATE OF INTERDICETD IFMIS
STAFF**

We wish to respond as follows:

**Section 76(5) of the County
Government Act provides that:**

If criminal proceedings are instituted towards a county public officer, disciplinary proceedings against the officer or dismissal for imposition of any other punishment on any grounds involved in the criminal charge shall not be taken until

2016 SIAYA COUNTY ASSEMBLY DEBATES

the conclusion of the criminal proceedings and the determination of any appeal therefrom has been made.

While sub section (6) of the same Section provides that:

Nothing in subsection (5) shall be interpreted as prohibiting or restricting the power of the County Government or the concerned County Chief Officer or other lawful authority to interdict or suspend or take any interlocutory decision against the public officer.

The officers in the said cases were under investigation by Criminal Investigation Department for alleged fraud committed while serving as officers for the County Government of Siaya. From the analysis of the investigation Report from the Criminal Investigation Department on the Siaya County Government Computer Fraud Case and Kisumu BFID Case Files, Ref:

CID/BFI/KSM/SEC/4/4/2/VOL.IV/110 dated 15th October, 2014, the following observations were noted.

Category I of staff

- 1.) Loise Akoth Abeka
PF/NO. MCS227 -
Senior Accounts Clerk
- 2.) Lucy Akinyi Odera
PF/NO. 20090002485 -
Accounts Clerk
- 3.) Monica Atieno Nyasio
PF/NO. 20010002043 -
Revenue Officer
- 4.) Bernard Omondi Alaru
SCC/FIN/000777 -
Chief Cashier
- 5.) Victor Otieno Gero
-
Assistant Administrator
- 6.) Wycliff Washington Sihulu
PF/NO. 1978034536 -
Accountant

The staffs whose names are listed under category I above refer to those whose cases are still undergoing court proceedings at Kisumu Law Courts. Several cases were filed against the officers in Kisumu; vide criminal cases No. 223 of 2014, 531 of 2014, 533 of 2014, and 535 of 2014. All these cases were consolidated to criminal case No. 223 of 2014. In view of this the County Government is constrained to take any further action by the sub judice rule.

Category I of staff

- 1.) Grace Odero
- 2.) Steven Oyugi

The Report on the investigation indicated that the staff listed above were found not to be directly culpable hence their interdictions were lifted.

(Vid letter Ref:

SYCNTY/PSB/GOVERNOR.CONF/VOL . 2(23) and *(Vid letter Ref:*
SYA/PSB/GOVERNOR'S/CONF/INTER D. /VOL. 2(23)

In light of the above for avoidance of doubt on the legality of the suspension we refer to Section 46 of the Employment Act 2007 which provides for what do not constitute fair reasons for dismissal or for the imposition of a disciplinary penalty.

Mr. Speaker, the following are the statements which have been attached, this is a statement response by the Chief Officer for Public Service and Governance.

We wish to respond as follows:

A proposal was tabled by the Budget Committee of the County Government of Siaya to have 93 million put in the supplementary budget for emergency, with the reasoning that the same was provided for in the County

2016 SIAYA COUNTY ASSEMBLY DEBATES

Allocation of Revenue Act (CARA). The money was therefore to be provided for by the National Treasury besides the allocations that were already provided for in the County Budget. However it emerged that this was not the case instead the National Government had proposed to provide funding to the Counties to mitigate the El Nino effects. The Office of the Controller of Budget confirmed that there was no provision in the CARA 2015 for emergency to counties unless in circumstances where specific counties had budgeted for the same.

With regards to the 10 million allocated in the budget for emergency, this was put under finance and hence the department of finance has exclusive authority for the appropriation of this fund.

Therefore, the department of Public Service and Governance has had no money to either compensate the people affected by El Nino or other emergencies for that matter.

We wish also to note that there have been similar queries from the County Assembly with regards to how funds for emergency has been spent (Vid letter ref: ASS/CORRES/C.EXC/15 VOL 5-29) to which the County Executive Committee member for Public Service and Governance responded (Vid letter ref: CSG/GVNC/ADMIN/CA/15/VOL 1(124).

The letter has been signed by Joseph Ogutu, Chief Officer for Public Service and Governance and has been copied to H. E. the Governor, CEC member for Public Service and Governance and the County Secretary.

Mr. speaker, Sir, the next one is a response written by the Public Service Board through Chief Officer, Finance Planning and Vision 2030.

RE: REVOCATION OF INTERDICTION.

Pursuant to the hearing of your case by the Board on 9th February, 2016 vide Minute.6/09/02/2016, I am directed by the Siaya County Public Service Board to inform you that the Board has carefully considered your case and has determined that you are not guilty of the allegations made against you. Subsequently your interdiction is hereby revoked.

Accordingly, any salary and allowances withheld during the period of your interdiction will be paid to you in full by the County Director – Human Resource Management once you report to duty.

By a copy of this letter, the Director Human Resource Management is required to reinstate you back to the payroll and pay the withheld salary.

You should acknowledge within two weeks from the date of this letter that you have read and understood the contents herein.

I think Members can peruse through the other attached letter. Do I need to read it?

Hon. Members: No.

Hon. Awuor: Thank you Mr. Speaker, Sir.

Hon. Speaker: At this point I want to ask the Sergeant at Arms to get for me all the staff members who are involved in the maintenance of the public address, make sure they stand at the back so that they can go through the same difficulty Members are going through when communicating in this Assembly.

The Clerks department you are not here just as flower girls, you need to make the environment conducive for us to debate including making sure that we have a functional public address. Courtesy requires that you give us notice in case the

2016 SIAYA COUNTY ASSEMBLY DEBATES

system is not working. There is no harm in saying that you apologize, maintenance of the public address is going on, rather than ambushing all of us to come here and face all this frustration, even the Chair doesn't know what is happening.

I think we have an allocation for maintenance and this Assembly has given the administration the free hand to do it so that is the bulk outside the Assembly. I just want them to feel what we are going through.

Is there any supplementary question?

Yes, Hon. Muhula.

Hon. Muhula: Thank you, Mr. Speaker, Sir; I would want to remind the Chair of Governance that in my annexure here there are only 2 letters. I have not seen the one from the Officers of Finance.

Secondly, I explained to you the predicament that we Hon. Members are facing here, that it is not easy nowadays to interrogate these people because the reference that they are putting here for those interdicted staff in category II, is not showing whether the two staff are working for the Siaya County Government.

Then there was also double interdiction and both happened in this County government so this is only addressing one. Hon. Chair so if you could also go further on this matter because they were interdicted and we have seen them coming back yet there are no letters that are clearing them.

So, I would ask you, Hon. Chair if you could permit this Committee to go further on the issue of interdiction, on what happened at the Executive Government part on the issue of IFMIS in fact more so it has only been in the Finance department of the Executive. Thank you.

Hon. Speaker: Chair, take note.

Yes, Hon. Apiyo Apiyo.

Hon. Apiyo: Thank you, Mr.

Speaker, Sir, I can see letters here clearing the officers but this letter is purported to clear the officers by the Public Service Board but not before the Hon. Court. I can say a game is being played here. When we look at the response request and the statement request from the recruitment of Information officers, the so called Communication Officers, I think the Board or the County Secretary or whoever is trying to play us a game because we should work within the Constitution.

Mr. Speaker, Sir and my Chair, I don't see where it spells it out clearly that these Communication Officers exist in our Constitution, what I know does exist is the Ward Administrator and the Village Administrator. What they are being paid here, is the innocent tax payer's money and it is the same Board who are trying to confirm that on recruitment, Information Communication Officers were advised and interviews were carried out by Public Service Board.

Did they carry out interviews and was the advertisement placed? They never gave us a date here so it is clear that they are trying to play games to convince us or to sweet talk us to support this Report and ignore the allegations here. What we need to see is the advert, the date it was made and the date of the interview.

Why am I saying this? These are taxpayers' money they are being paid and I am told that they are paid Kshs. 30,000 every month. One from my Ward was heard saying that they were promised to be paid about Kshs. 80,000 of which they were never paid and they were on arrears. If they are employees of the County where the recruitment was done by

2016 SIAYA COUNTY ASSEMBLY DEBATES

the Board, then they should be paid every month.

This was also a question that was asked in a Statement request by Hon. Booker Minami, are they being paid yet we also have the Ward Administrators. These Communication Officers are really frustrating the Ward Administrators, who are employed as per the Constitution of Kenya. Where are these characters Communication Officers coming in? Maybe you respond to that.

Acting as the first point of contact of the Citizens who wish to complain about the County Government there is a conflict somewhere. I think the Ward Administrators are also the eyes of the Governor down to our Ward levels, these are the Communication Officers that should be giving the Governors either information or even advice Mr. Speaker. Let me rest my submission, maybe the Chair can respond on the same allegations as per the advert and the dates of the interviews. Thank you.

Hon. Speaker: Your question has been answered, Hon. Oriaro, you had a supplementary question?

Hon. Oriaro: Yes chair, this was an Omnibus Report, so not necessarily having mine in tandem with that which had already preceded, but my concern because its an Omnibus report is a response to a Statement request I had brought on the defunct Local Authorities Mr. Chair ,and Preliminarily if truly this House is the Epicenter of over County Oversight,No.1 and then even Legislation and Representation then it is infamy for the House to handling as it is now because this issue shall appear in our website, even the Statement request I had presented is very clear, there is no answer to my concerns Mr. Speaker Sir.

They are talking of 21 Defunct Local Authority staff and retirees, and I really wonder because Devolution is all about devolved services, and the philosophy of the delivery of democratic good is Governance. We have the chair of Governance here, and so am asking myself, if this is the report that they got from the other side, and there is no specific report here with the answers, they would have cross checked the response against my Statement.

I did not talk only about the 21 from defunct Local Authorities. It's interesting because some of them were even outside here. Some of these people had retired in the service of the County Government of Siaya, so to say here Mr. Speaker Sir that the answer No.1 suffices that there was no agreement between the National Government and the County Government, what about the case of those who had retired from the County Government of Siaya just last year?

Then question 2 also, response to failure to pay, they refer us to No.2 and then of course the dead, we will use employees records to identify and confirm that! Mr. Chair, I don't know what shall become of the others but having remarked earlier, the Committee has powers analogous to the Powers of the High Court, they should be genuine, even employ credible officers or engage who can help them transact in the best interest of the public.

My prayer, that the chair directs that my case of salaries, because even response was to be within 3 days, you can see how long it has taken, that a Committee does now an investigative work over this matter. We are dealing with human beings, some are sick, some their children are out of school, etc. they also

want to have a better life, that we get a credible Report that even the Public can see that our County Assembly is really doing something. Thank you.

Hon. Speaker: Yes, Hon Abayo.

Hon Abayo: Thank you, Mr. Speaker, Sir, I have about 3 issues, a bit of it has been raised by my friend, Hon. Apiyo. My concern is the Information Communication Officers. Hon. Apiyo has stated that the Committee needs to access a copy of the advert. We are reliably informed that interviews were done and I think the Board needs to avail the report on the interviews. Who were interviewed and how those appointed came into force. An interview means it's competitive, so there are 3 or 4 interviews done in a Ward and let's say Hon. Abayo is No.1. That Report needs to be availed to us from this Committee.

Mr. Speaker, Sir, very interestingly, in No.3, the terms and conditions of employment is on Contractual basis pegged on the tour of duty of His Excellency the Governor. Very interesting! I don't understand the basis on which these people were actually engaged, and as a practitioner of Human Resource Management I look at the qualification and ability to effectively engage, I don't understand!

There is just a joke around whoever is writing this report, because they need to really give us the terms of reference. You look at their roles as has been mentioned then you look at the role of the Ward Administrators and finally what is being raised here. I am raising this Mr. Speaker because I chaired a committee of ICT and Radio, even the way Information and Communication has been put here, and I think I was trying to look at what is really the role of Information Communication

Officers. It does not add up, this looks like apolitical appointees and we need to really get serious on this.

On No.5, they are saying these positions were part of the Administrative Structure of this County that has been set up. It is incumbent upon this, the Committee to look at, they need to get a copy of the Administrative Structure of this County, and look at, those positions and if these were part of the Administrative Structure, whom are they responding to? And who are they responsible to? Are they within the office of the Governor or whom do these fellows report to, structurally within the Administrative Structure if they ever existed. I think that needs to come out and that goes with the salary bracket.

All positions as designated and confirmed at the time of transition all positions were designated, the job groups were designated and salary brackets, and I think that is something in the Public Domain, that the salary that they actually get today is in line with that structure and that its not just the creation, but its part of the structure, the salary bracket and the job group are actually tallying.

Going to the 2nd one on salary arrears, I want to agree with Hon. Oriaro, why has there been a delay on the payment of the salaries? I think the response given here makes me sick. There was no agreement between the National and County Government on the issue.

We should not be having very short memories, this particular House has passed Budgets of payments of some of these cases, we have people who have been paid arrears for whatever issues that were carried from the previous authority and they have been paying people of Alego, even now we have money to pay other

2016 SIAYA COUNTY ASSEMBLY DEBATES

people of maybe Yala and Ukwala, so I don't understand why somebody could say there is no framework to handle these issues, and for me it was a question of confirming those particular issues raised by Hon. Oriaro based on records and see whether these are legitimate payments we needed to make, and if so look at ways to do that even in the current Budget, there are monies to handle such issues. This is a very interesting question. Thank you Mr. Speaker

Hon. Speaker: Yes Hon.Gare.

Hon Gare: Thank you, Mr. Speaker, Sir; my concern is also on this issue of the Information Officers.

My first concern, I am not completely convinced with the answers given here. In fact I would request that we dig further into this information, because we are being told here that these people, one of their functions is to gather information from the people of Siaya about development needs at the Ward level, then where do they take these needs after gathering information? because we have forums and we have the budget so which office do they report these needs to, because I am the Ward Representative of West Sakwa, I have never seen a forum where the Information Officer comes with information from the needs that have been given to him or her by the residents of the West Sakwa Ward, so this one is not clear.

Secondly, we are told that these people are providing citizens with information required from them in order for the citizens to receive County Government Services, which ones? for instance, the other day, I brought in a Statement request here wanting to know about the Water in Bondo. Are they also aware, that in Bondo now as we speak, there is no water? And if they are aware,

and these are the needs that they are supposed to get from the people, where do they take this information? Because for me, if am aware I bring a Statement here, where do they take the Information? And which actions are taken?

We are told there is this issue of Administration Structures, we are aware that there is the County Government Act so which one supersedes which? Because we know there is a Ward Administrator and below the Ward Administrator, there should be somebody called the Village Administrator down to the Village Councils, and these are the steps that the people should take the information to, through that channel. If there is the Administration structure which now supersedes the County Government Act, then where are they?

With that, I want to go to the issue of the El Nino, we are told there was no money, and there is no money. We are told the Information Officers are supposed to take information to the people and receive the information, at one point there were officers coming from the Government taking names to the Ward Administrators, and they went round the Wards, identified the people who were affected by the El Nino, their names were taken and brought forward to the County Government.

To date no information has been taken back to the residents and they have not been told that now, there is no money and you cannot be helped, while in the same Ward there is an Officer, and we are told should be receiving information and taking back the information, now where are we? Now we are told there is no money for El Nino

Another concern is about the defunct authority employees. I am aware that in my Ward some people were paid,

2016 SIAYA COUNTY ASSEMBLY DEBATES

just when we came in. I think they came here, there was a list and they were given some money although some people were not paid. So if we want to say that these other people who were paid went with the money, note that other people who were not paid. All these people are from my Ward, and they are coming from the Siaya County, are we justifying these facts? That people should be told, you were paid while others were not paid.

If Hon Oriaro brought in this issue and we are not taking it seriously, I think we should be told that those who have been paid are these ones and why were they paid and why the other ones cannot be paid, because all these people come to our offices. They know that the others were paid through my efforts so they went to complain saying I am biased. On all these Statements from what I have seen, we have not gotten the right information that we wanted. Thank you, Mr. Speaker, Sir.

Hon. Speaker: The staff can leave, you will report to my Office after Plenary. Yes Hon Andiego.

Hon. Andiego: Thank you, Mr. Speaker, sir, I just have a concern with the issue of Ward Administrators, we always want to see them within the wards. As we speak today, we still play the role of Ward Representatives and the Ward Administrators, and these people are there getting their salaries as usual.

I am not convinced with the answers given to this, we have offices in our Wards, even if they were employed, if they cannot get offices, they can hire offices within the ward. Our people come into our offices everyday and we answer questions that we should not answer. I am asking that for those who can be accommodated in our offices, can they accept to come and work there? Or instead

of again employing the Information Officers who are earning a lot of money, why can't they use that money to get offices for these Ward Administrators, so that our people get the services? Time is running out and we don't know what we will do.

Still on the Information Officers, there are people who are being employed and we pass the Budget in this House, this Assembly as we are, did we get that time to approve the names of the Information Officers who are supposed to be employed? At any time, this House is always informed of this kind of employees who are being employed to the County, so I am requesting the Committee that some of these questions do not just need one Statement written to us and then we want to be convinced that we have been answered.

We are asking these questions with the interest of our County and the people must get the information. One line Statement does not convince us of what we want, and therefore am requesting that they do thorough investigation into these questions that are being passed, which are being shot in this House. Thank you, Mr. Speaker, Sir.

Hon. Speaker: I am hoping that the Chair is taking notes, and I think in future whenever we are delivering Statements on answers to Questions sought, we need to have our Clerks seated somewhere even in the Public Gallery taking notes. Hon. Members you also don't leave the responsibility to the Chair alone, you also take short notes.

Yes Hon. Ndonji.

Hon. Ndonji: Thank you Mr. Speaker, Sir; you have just said what I also wanted to say to this particular effect. I want to say that this was a response from

2016 SIAYA COUNTY ASSEMBLY DEBATES

the Executive so the Committee will now have the opportunity to dig deeper, after we give the questions that we have or our concerns for that matter.

I want to start with the recruitment of Communication and Information officers. As answered here, it is being said that the terms and conditions of employment is on contractual basis pegged on the tour by His Excellency the Governor. My first Question is how they are normally paid, not the cost center, but how are the payments being calculated? Is it on the basis of the tour of the Governor or on a constant payment per month, because according to that Statement, it means that even the payment should be going in accordance to the tour of the Governor?

Secondly when you move ahead, you find that there is contradiction because apart from that they are also lining up a number of duties for these Information Officers which means that it is being done only to please us or rather to hoodwink us that there is a good reason for having to employ these Information Officers.

On the 5th response that is number 5 of the same it is being said the Public Service Board has confirmed that the officers are part of the County Government of Siaya established Administrative Structure. What I wanted to know is that is there any procedure of establishing an Administrative Structure in Siaya and if there is that procedure why is it that it was not put in this Report so that we are aware that this is what was done before a decision was reached so that they can get employed and I also want to know if here is any deal or if such structures should be approved by the Assembly and if so they never came to the Assembly we want to know why.

Getting to the salary arrears of the 21 defunct local authority staff and retirees, just as Hon. Oriaro said earlier he had not given the number of staff who were claiming money from the County government. I am also beaten by the fact that these people already even know the number and they are preempting that there is a number demanding for their payment which means that there is something that is known by the County Government about these employees.

The truth is that these people actually worked for the local authorities and as a matter of fact the Constitution is very clear about when somebody works for any organization whether it is a governmental or even private organization when it comes to compensation and when it comes to their benefit that is retirement benefits.

I want to say that if there is a way in which assets were inherited by the County Government then there must have been a way in which liabilities were supposed to be inherited by the County Government. We want to know why it is being said that there has been no agreement between the National Government and the County Government as to who bears responsibility of liability and why is it so and if it is so with these people coming here to ask for their benefits. Is there nobody who is responsible to be asking the National Government about these issues so that it is clear and these people get paid whether it is through the National Government or the County Government?

Apart from that, we are aware of a number of debts that have been paid by the County Government and yet these are also liabilities there is no way they can tell us that they used such a clause to make such

2016 SIAYA COUNTY ASSEMBLY DEBATES

and such a payment or they were agreements. If there were any agreements then they should tell us why the agreements were selective. Why is it that there are some that were agreements and others there were no agreements and if these people were paid with no agreements then who is responsible for such payments because the buck has to stop somewhere. Thank you.

Hon. Speaker: Hon. Aneme.

Hon. Aneme: Thank you, Mr. Speaker, Sir. What has really provoked my happiness this morning on this Report is the issue of arrears. The cheating which has been put here in writing that there was no agreement between the National Government and the County Government as to how they can handle the liabilities is a lie.

This is somebody who is just trying to deny us information, from the inception of the County Governments it is very clear and it was in records that the County governments took the liabilities and assets of the former regimes. Now when this happened every FY we pass here a budget which is going towards settling the arrears and the pending Bills. To date we are in the 4th year and in fact we are in an evaluation period where we should insistently and consistently know how many arrears has been settled and how many pending bills have not been settled.

For these people to come up with such an answer it is a lie, a ploy and it is an abuse. I would want us to probably after passing this Report to insist that the Executive should give us because they have a list of all the staffs all the moneys that we have been putting in the budget we know and the budgets are here to be reviewed.

I want us to pass a resolution insisting that we would now want to know that from the 2013/2014 how many people were paid their arrears and how many people were paid the pending Bills 2014/15 the same and 2015/16. If they can give us such kind of a breakdown I think we are going to go in the right direction but when we ask such kind of a question when we see our people languishing in poverty around here and somebody come out with such a Report and this I person who is given money every FY to settle this thing probably you are giving him a new leeway to escape without solving any solution.

So my concern was that I wanted us to come up with a resolution that we demand the list of all these people who have been paid since 2013 to date, the pending bill since 2013 to date so that we know what is remaining if there is a budget to be done then we now see what amount should go to the arrears and the pending bills otherwise as it is it means that all these money that we have been giving these people way back from 2013 to date has not been spent correctly. Thank You.

Hon. Speaker: Hon. Minami!

Hon. Minami: Thank you, Mr. Speaker, Sir. I have a few issues some of which my colleagues have addressed. On the issue of Information Officers, I would like to raise a few issues which are stipulated in our Constitution.

First of all, if in deed we have advertisements that were done; the County Government Act states that advertisement should be widely done. Section 66 of the County Government Act if a public office is to be filled the County Public Service Board shall invite applications through advertisement and other modes of communication so as to reach as wide a

2016 SIAYA COUNTY ASSEMBLY DEBATES

population of potential applicants as possible and especially persons who for any reason may be disadvantaged.

If indeed interviews were done as the answers that have been stipulated here then it means that advertisement was done. It would be prudent that as a House we are given as my colleagues had requested where the advertisements were done so that we are all sure that opportunity was given to every body.

We are told through the answers that Information Officers are part of the County Government Management structure. If you look at the County Government Act, Section 46 talks about decentralized units and here we have the Sub – County Administrator, Ward Administrator, the Village Administrator and the Village Council. I don't know if there is any other that is not within the County Government Act.

The Constitution provides that if the Public Service Board was to come up with a new officer because these are new offices, then the consent of the Assembly had to be sought. They had to bring it to the Assembly so that the Assembly passes it. A good example is when the Board wanted to create the office of the Protocol Officer it was brought here and we passed it but for Advisor on Agriculture, it was brought here and we did not accept it.

Recently I saw some advertisement made for the CEO in charge of School Feeding Program and the Assembly was not involved in the establishment of that office. If these offices are part of the County Government of Siaya and they are not part of the county Government Act that established the County Government of Siaya then the Assembly should have been involved in the establishment of this office which was never done.

What are the qualifications? We are being told in number 3 that the registered qualifications was the ability to effectively engage with the local citizen at Alego that is friendly and non threatening so that citizens can comfortably relate with them. I don't know the kind of qualification that is, I have never heard of it anywhere. So I think it is very clear in the County Government Act section 65 (a) which states very clearly how somebody should be employed in a County Government. The employment and recruitment should be transparent for all public servants.

Finally if in deed these people were interviewed then appointments were done section 67 of the County Government Act states that “no appointment or assignment or a duty in a County Public Service shall be valid unless it is evidenced in writing.”

I would request the Committee that if these people were interviewed then in deed appointment letters were done. Could we see the appointment letters? Thank you.

Hon. Speaker: Thank you, the Chair is taking notes. Hon. Willis.

Hon. Ochieng: Thank you, Mr. Speaker, Sir, for giving me this chance to speak. On the matter of El Nino, the answer is not put well and it is not for the consumption of the House.

It is as if this County Government is telling us that they are failing because they can't plan for emergency and that they are not concerned with the electorates they should be taking care of. The answer that the 10 million was not in the department of Public and Governance is a wrong answer because as much as it was in the Ministry of Finance or Department of Finance they should tell us on how these

2016 SIAYA COUNTY ASSEMBLY DEBATES

money was spent and in which functions they were spent.

As Hon. Gare stated, the Government went down to the affected people promising them that they are going to give them some assistance or compensation on the loss they have incurred. Up to date these people are still asking whether the Government is still ready to give them the assistance they were promised. We can see there was some allocation of 10 million that were never used in such a case. My question would be, can we be told how this 10 million was used and how many people and which people benefited?

Lastly I would also want to know the preparedness as a County on emergency, they should be budgeting for this because emergencies are what we can't estimate at what time they could be occur or happen. Thank you.

Hon. Speaker: Hon. Ngure.

Hon. Ngure: Thank you, Mr. Speaker, Sir, I have sat here listening to my colleague's debate these responses and I just want to thank them for their contributions.

I think we have one major problem with our colleagues at the Executive. When answers are sought, they do not give the answers clearly and in some cases they even refer you to sections where you will get the answers for yourself. I think this borders on impunity because they spell out like in the case we are discussing here about El Nino, they spell out what is going to be done about it and plans are given put, arrangements are in place, projects have been stated how they will be taken care of and then in the end nothing is done and nothing is said on why they were not done.

I think to me that is purely impunity! If they came out clearly with

answers as to why this plan that we had put in place and the money that we had put in place if in the need it was found not to be sufficient. They should then state and the people will understand that we do not have enough money therefore whatever projects we had in place to cater for the issues of El Nino are now not as is being said here.

There are people whom we approach and what you see are issues that should be taken care of like people who are living in swampy areas, what should be done to the roads? For people who have animals, whether the animals should be moved to whatever leveled grounds where they will not be swept away by El Nino rains.

Maybe we did not get as bad rains as was suspected there would be but again no report came back as to whatever roads were to be repaired after they were swept away by El Nino. Some people lost their livestock we did not hear how they were to be compensated. As a Government we do not expect that we get crumbs from them. We are eager to see these plans put in place nothing is done and we are not told anything. No reason why they were not done so if we could get proper plans and then we are told if they have not taken place then we will understand there is no reason why we should be left guessing.

My colleagues have spoken so well about the Communication Officers. Hon. Booker was wondering what the qualifications stated were. I think they were looking for people who are qualified in hospitality, you talk to people nicely, you appease them, they wait for something and everything is okay simply because the officers are hospitable but it in reality it was not done well.

2016 SIAYA COUNTY ASSEMBLY DEBATES

The other matter that pains me a lot is the issue of arrears of members of the defunct local authority. As has been said here and as a member of PIC and PAC, I remember that these issues are coming out clearly how some people have been paid, how plans are underway to pay the rest of the people if some people were paid and they were sorted out some other members of the same County have not been paid. Where do you place them?

You have a County where all the residents are like your children. You pay some you don't pay the others and you don't even tell them why you are not paying them now and when you will pay them. That is not acceptable and people are suffering! It is okay if you go to look for a job and you are told we cannot employ you because we do not have money to pay you salaries please go and get a job that will pay you, but if you have worked you must be paid. In arrears concurrently you must be paid. We cannot leave our people suffering and we give such shallow answers that there was no agreement between the National Government and the County Government.

Our County Government must look for ways and means because this money is not even in hundreds of millions. Why aren't they being paid? There are other things we are doing in this County which cost much more and we always wait. These people should be paid. They must be paid! If they are not being paid we must have clear plan of when and how they are going to be paid. Otherwise these answers are very shallow and I repeat that answers here border on impunity. That is the answer I have given you don't ask anymore questions.

(Laughter)

Hon. Speaker: Thank you. I hope you have taken supplementary questions. Yes Hon. Ombee.

Hon. Ombee: I just wanted to say that we have heard the issues that the Members have raised. If you allow us to go back as a Committee, then we will now go further and engage those people in terms of investigation and then we give a good report because. Thank you, Mr. Speaker, Sir.

COMMUNICATION FROM THE CHAIR

IN-HOUSE COMMUNICATION

Hon. Speaker: At this point I think we have exhausted the existent Motion. I just want to make some in-house communication. I therefore advise the Serjeant-at-arms to engage the persons in the public gallery to excuse him/her for me to make that communication.

*(Serjeant-at-arms asks members of
the public to leave)*

We have our way of conducting business and I have just received some complaint from the Executive on the matter that borders on the alleged misconduct of our Members while in Committees. I thought because it happened in the Committees it was important for me to share with you the feelings of the author before I will eventually make my response to him.

There is a letter from the County Government of siaya Department of ICT, Tourism, Culture and Wildlife Conservation. It is addressed to the Speaker of Siaya County Assembly on the

2016 SIAYA COUNTY ASSEMBLY DEBATES

18th of November 2016 and the reference is 'HOSTILITY OF SOME MCAs TO MEMBERS OF THE EXECUTIVE':

I write to express serious concern about intimidation the members of the Executive get from some members of the County Assembly when they are invited by the Sectorial Committees to give reports on plans, activities and expenditure of their departments.

The County Assembly Sectoral Committee of ICT, Tourism and Culture and Wildlife Conservation invited me CO and Tourism Director for a meeting on Tuesday the 15th of November 2016 at Board room 3 in Siaya County Assembly.

Few minutes after the meeting started Hon. Agoko walked in the meeting room and before we settled down he started shouting to my Chief Officer Mr. Amos Okello calling him names and making unsubstantiated claims calling him a thief. The Chairman Hon. Abayo intervened to restore order and the meeting continued. At the end of the session, Hon. Agoko followed Mr. Okello and continued shouting at him he in fact attempted to physically assault him and he was only saved by the Serjeant at arms who was nearby.

Mr. Okello had to escape using a motorbike as Hon. Agoko continued to charge at him. I do not understand nor do I have details of the dispute but I believe there are better and civil ways of handling issues like this which has now gone even to the media.

At the meeting we discussed areas of concern as outlined on the letter of invitation followed by brief information about the current activities in the Department but when I reported on Got Ramogi event the Department is organizing to have from 24th – 26th of

November 2016, Hon. Elisha Okuku MCA for Yimbo East became very hostile warning me that he even helped me.

He took a firm position against the Ramogi event and warned me that he would hire people to attack me if I dare step there. In response I told Hon. Elisha that I would report his threat to police station which I have since done. The threat to attack me was captured via the Hansard device which was recording proceedings.

Hon. Elisha also needs to state why he is demanding cancellation of Ramogi event that has been organized by the Department and some partners have agreed to support. The purpose of this letter is to ask for your indulgence regarding the hostility we get from MCAs and why an MCA should demand to participate in planning and implementation of department activities.

Hon. Speaker, further investigation needs to be carried out to establish if Hon. Elisha Okuku of Yimbo East Ward has any connection with the thugs who attacked the security personnel at Ramogi Resort and vandalized the cottages which had been renovated some time back since he has confirmed that he has people to be hired to attack others.

Thank you for your attention to these concerns.

Yours Sincerely, Arch Bishop
Charles Okello, CEC ICT, Tourism,
Culture and Wildlife Conservation. The
same letter has been copied to the
Governor, Deputy Governor and County
Secretary.

Because it has been addressed to me I do not want to address myself to it before I talk to the concerned parties, the complainant, the people adversely mentioned, the Hansard report, the Committee Chairperson, the Serjeant at

2016 SIAYA COUNTY ASSEMBLY DEBATES

Arms. Having consulted those people and the relevant registration guiding our conduct then I will make communication. Thank you.

MOTION**ADJOURNMENT**

Hon. Members there being no any other business will you be upstanding for adjournment.

(Members rose)

There being no other business this House stands adjourned until today Wednesday, 23rd November, 2016 at 2.30 p.m. in the Chambers.

The House rose at 11.18 a. m

WEDNESDAY 23, NOVEMBER, 2016

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

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

PRAYER**COMMUNICATION FROM THE CHAIR****DELEGATION OF FORMER COUNCILLORS**

Hon. Speaker: Hon. Members, this House is today blessed to have the opportunity to host in our Public Gallery and the Speaker's Gallery gallant sons and daughters of this great County. I want us to acknowledge their presence in our special way.

(Applause)

Thank you. These are sons and daughters from various Sub Counties in this great County. They are here in large numbers. I want to call out the names of a few and others will rise depending on which Sub County they come from. The leadership is represented by the following:

1. John Oruenjo Umidha
- Chairperson
2. Councilor Alogo Raila
- Vice Chairperson
3. Councilor Astery Agolo
- Secretary
4. Councilor Emmanuel Amata
- Organizing Secretary
5. Councilor Eric Ochieng Awando

6. Councilor Aggrey Onyango
7. Councilor Ben Adero
8. Councilor Loise Otieno

(Applause)

Allow me to welcome them by Sub Counties, I will mention their Sub Counties and then in our traditional way we welcome them. Wherever you are, just stand!

- Alego Usonga Sub County -
Former Councilors
- Ugunja Sub County -
Former Councilors
- Rarieda Sub County -
Former Councilors
- Ugenya Sub County -
Former Councilors
- Gem Sub County -
Former Councilors
- Bondo Sub County -
Former Councilors

(Applause)

Thank you, so much and feel most welcome. Next order!

PETITION

THE PLIGHT OF THE COUNCILORS WHO SERVED UNDER THE DEFUNCT LOCAL AUTHORITIES IN SIAYA COUNTY SINCE INDEPENDENCE

Hon. Speaker: Hon. Members, if there is any Member who is out there they need to come in because I want to present a Petition. I will proceed. Hon. Members, pursuant to article 37 of the Constitution of Kenya, it says that every Citizen has a right to peaceful and unarmed, to assemble, to demonstrate, to picket and to present Petitions to Public Authorities.

We go to the County Government Act Section 15 and I read; Right to Petition the County Assembly. A person has a right to Petition the County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.

Pursuant to Standing Order no. 203 and 204, I have received a Petition from the forum of former Councilors and under Standing Order no. 203, it defines a Petition as a written prayer to the House by a member of the public requesting the House to consider any matter within its authority, including enacting, amending or repealing any legislation.

It is on this basis that the forum of former Councilors presented a petition to this Hon. House. The former Councilors drew the attention of the House on the following;

1. THAT, they faithfully and diligently served the people of Siaya as councilors and in various capacities under the defunct local authorities prior to the 2013 General Election, when the local authorities were disbanded to give way to the devolved system of Government.
2. THAT, while former Members of Parliament and other Government officials who served in appointive positions are entitled to and indeed enjoy pensions and gratuity packages that ensures they live reasonably comfortably once out of the office, there exists no similar mechanism to compensate or appreciate those who served this County faithfully as Councilors under the defunct local authorities.
3. THAT, majority of those who served as Councilors in the defunct local authorities since independence are now living in object poverty (squalor), and face a myriad of challenges, including inability to cope with deteriorating health in the absence of health insurance covers;
4. THAT, they have made the best efforts to have this issue addressed by the relevant organs including the Senate without any dependable outcome;
5. THAT, the matters raised in the petition are not pending in any court of law or any other legal institution.

WHEREFORE, your humble petitioners pray that the County Assembly of Siaya;-

Investigates the issues raised in this petition and make appropriate recommendation and legislative interventions thereon to address the plights of former Councilors who served in the defunct local authorities in Siaya County since independence, including:

- a) Making provisions for payment of a one- off honoraria of ksh.1.5 million to every former councilor who served for one full term or more and is still alive;
- b) Making provisions for payment of a monthly pension of Ksh. 30,000 per councilor for every councilor who served for two terms or more.

2016 SIAYA COUNTY ASSEMBLY DEBATES

c) Making provisions for county sponsored health insurance for all persons who served as councilors in Siaya County since independence;

d) Making provisions for access by former councilors to premises and facilities of the County Assembly, including canteens and the Speaker's gallery in our respective sub counties halls and;

e) Making provisions for former councilors to be exempted from paying parking fees within the County;

f) Making provisions to ensure that the same benefits be incident upon the current or future Members of the County Assembly of Siaya upon cessation of their membership having served one or more full terms of the assembly.

The Petition has been signed by about 208 former Councilors. Therefore, pursuant to the Standing Order No. 211(1), every Petition presented or reported pursuant to this part shall stand committed to the relevant Sectoral Committee.

You will agree with me Hon. Members that this is a matter of National importance hence it needs deliberations. The Committee must meet the petitioners and consult all the relevant stakeholders including the Senate, the County Executive, Executive Member in charge of Finance, the National Government, that is the Treasury, the Salaries and the Remuneration Commission, and any institution they deem fit and relevant.

Pursuant to the Standing Order No. 211(2), states that; Whenever Petition is committed to a Sectoral Committee, the Committee shall, in not more than 60 calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House.

Hon. Member, I therefore direct that the Committee on Justice and Legal Affairs do interrogate the Petition and issues raised herein and Table a conclusive report to this House within the said period from the day it has been read, considering that this matter is urgent. And I so direct. Next order!

NOTICES OF MOTIONS

1. UNFINISHED PROJECTS IN WEST ALEGO WARD

2. PROJECT MANAGEMENT COMMITTEE PAYMENT

Hon. Apiyo: Thank you, Mr. Speaker. On behalf of the Committee on Roads, Public Works, Transport and Communication, we have two reports this afternoon and we gave a Notice of Motion yesterday.

MOTION

UNFINISHED PROJECTS IN WEST ALEGO WARD

Hon. Apiyo: Thank you, Mr. Speaker. I wish to move a Motion: THAT this House adopts the report of the Committee on Roads, Public Works, Transport and Communication on unfinished projects in West Alego Ward laid on the Table of this House on Tuesday, 22nd November, 2016 at 2.30 p.m. I would wish Hon. Andiego to second.

Hon. Andiego: Thank you, Mr. Speaker, I rise to second.

Hon. Speaker: Hon. Members, I am being advised on two important issues;

1. That the reports were laid yesterday and I want to consider Hon. Apiyo's submission to constitute Notice of Motion, therefore be so guided and

2016 SIAYA COUNTY ASSEMBLY DEBATES

2. I need to clarify to our guests that the practice of Parliament is that when a Petition is brought, the relevant Committee will meet with the petitioners and other institutions and bring a report which will be communicated to you when it will be debated and therefore just feel free to take part of these proceedings at your will, but the position of the Assembly will be cleared the day we will be debating that report. You will be consulted at the right time. Thank you.

(Question of the Motion on unfinished projects in West Alego Ward proposed)

Hon. Apiyo: Thank you, Mr. Speaker. On behalf of the Committee on Roads, Public Works Transport and Communication, I want to start by the introduction of this report.

Mr. Speaker, Sir, according to the Siaya County Integrated Development Plan (CIDP) 2013 – 2017, 743.1km of roads in the County are graveled and are expected to be improved to 2,208km. 1,161.8km are earthed roads and are expected to be increased to 1,580km. The roads department is one of the departments which are always allocated a high percentage of the County's total budget in order to increase the road network of the County. However, there have always been cases of complaints of either the road project not being completed in time or being done shoddily.

On 5th May 2016, Hon. Peter Muhulah, MCA, West Alego, sought a statement request from the Chair on Roads Committee (see annex 1). In the

statement, he sought responses on the following;

1. That the chairperson to explain why the construction works along the Hawinga-Sirinde road had not been completed, and measures in place to ensure that the road is completed within 2016/2017 financial year.
2. That the chairperson to explain circumstances that has caused the work along Sirombi road not to begin long after the scheduled onset, considering that the said road had been rendered impassable with the raging rains.

ACKNOWLEDGEMENT

The Committee appreciates and commends the support and facilitation of the office of the Speaker and the office of the Clerk of County Assembly of Siaya for the support extended to it in execution of its mandate. Our appreciation further goes to Hon. Members of this Committee for their persistence and dedicated participation in the investigations, analysis and production of this report.

[The Speaker (Hon. Okode) left the Chair]

[Temporary Deputy Speaker (Hon. Abayo) took the Chair]

COMMITTEE MANDATE

The Sectoral Committee on Roads, Public Works, Transport and Communication is constituted under the Standing Order 22(5) read in conjunction with the Second Schedule of the same and is mandated but not restricted by;

- All matters related to County transport, including County roads, street lighting, traffic and parking,

public road transport and ferries and harbors, excluding and regulation of international and national shipping and matters related thereto; County public works and services including storm water management systems in built up areas, firefighting services and disaster management.

The Membership of the Committee is 13.

STRATEGIES ADOPTED

The Committee held meetings with County Executive Committee Member (CEC) and Chief Officer for roads. The Committee also analyzed correspondences from the roads department on the status of the two roads in question.

To authenticate the information derived from the correspondence and from the interaction with the roads officers, the Committee conducted site visits and documented their observations as presented in the body of this report.

While on the site visits and also being in possession of the status report on the roads in the whole County, the Committee sampled other roads and other construction projects which were not originally in the subject of the statement. The information from the extra samples are included in the appendix of this report and serves as an eye opener to underlying issues as far as the progress of roads and other projects are concerned in this County.

FINDINGS

Odianga – Sirinde Road

According to the document on the status of the roads, the Odianga – Sirinde had a length of 3km. The road was 98%

complete. It was contracted to one Mijesh Company at an amount of Kshs. 835,942.4 in 2015/2016 financial year. In a signed response to Committee inquiries, the CEC roads indicated that the length of the road is 4km (see annex 2). However, documentary analysis of the status report of the road, from the department (see annex 3), indicates that the length of this road is 3km.

The CECM indicated that in 2013/2014FY; this road was allocated Kshs. 1,893,232.80 for opening grading and culverting. He declared that these processes were done. He however, noted this amount was not sufficient for constructing a drift culvert at Sirombi River which needed an extra Kshs. 2,000,000. He further indicated that Kshs. 840,000.00 was allocated in 2015/2016FY for grading of the whole road and gravelling a length of 200 meters. According to the Bills of Quantities obtained by the Committee, the 2015/2016 amount was to be used as presented in the table below...

Hon. Muhulah: Hon. Speaker, point of information!

Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. Muhulah!

Hon. Muhulah: The road that is in question here is supposed to be Odianga – Sirinde road. The Hon. Chair for Roads is mixing Sirombi and Odianga – Sirinde road while Sirombi is another different road in question. May we have clearance or you give direction to that.

Temporary Deputy Speaker

(Hon. Abayo): As Hon. Muhulah has stated in the text, what information is misplaced under Odianga – Sirinde that should have gone to Sirombi road? I am asking Hon. Muhulah!

Hon. Muhulah: Yes,

2016 SIAYA COUNTY ASSEMBLY DEBATES

Temporary Deputy Speaker

(Hon. Abayo): Anything in these areas, 6.1 is under Odianga – Sirinde that ought to have been under Sirombi?

Hon. Muhulah: When you get to paragraph 3, page no. 6 of 13. The CECM indicated that in 2013/2014 FY, this road was allocated Kshs. 1,893,232.80 for opening, grading and culverting. He declared that these processes were done. He however noted that this amount was not sufficient for constructing a drift culvert at Sirombi River which needed an extra Kshs. 2,000,000. This is a different thing from Odianga – Sirinde Road.

Temporary Deputy Speaker

(Hon. Abayo): So this information should be in 6.2.

Hon. Muhulah: Exactly.

Temporary Deputy Speaker

(Hon. Abayo): Hon. Apiyo, note that!

Hon. Apiyo: Yes, I think that was an error.

Temporary Deputy Speaker

(Hon. Abayo): Thank you, Hon. Muhulah for the correction.

Hon. Apiyo: Mr. Temporary Speaker, I was on page 7 of 13, that is the Bill of Quantity.

Code	Activity	Amount (Kshs)
01-50-026	Contract supervision	50,000.00
01-60-005	Provide and erect publicity signboards	40,000.00
04-50-001	Heavy Bush clearing	18,360.00
10-50-001	Carriageway grading Heavy –	
	Provide gravel wearing course	234,000.00

10-60-001 Excavation, free haul, spread water and compact

378,280.00

VAT (16%)

115,302.00

Total

835,942.40

During the site visit of the road on 30th August 2016, the Committee observed that opening and grading of the road had been done up to Sirinde River and about 100 meters beyond the river. The length of the road graded was approximately 1.3km. The remaining part was only opened. It was open without doing some grading work. The connection stream (Sirinde River) was in a state that makes the road only usable up to the river.

While the budgetary allocations and submission by CEC roads indicated that the road was allocated approximately Kshs. 1.8 Million in 2013/2014 for opening, grading and putting culverts, the Committee noted that grading was only done for a length of about 1.3km and no culverts were put. Opening was only done upto 100m beyond the stream. For the Second allocation of Kshs. 840,000, meant for maintenance, only about 100 meters of the road murrumed against the required 3km, beyond the stream, only about 100m was graded. The following pictures shows state of the road as it was observed.

Temporary Deputy Speaker

(Hon. Abayo): Just a minute Hon. Apiyo! Hon. Members, I want to raise the concern of the quorum of this House and I want to advise that should the Members continue to move then we will lack quorum and that will be very unfortunate. So, I want to ask

2016 SIAYA COUNTY ASSEMBLY DEBATES

the Members to stay put. Thank you, Hon. Apiyo you can continue!

Hon. Apiyo: Thank you, Mr. Temporary Speaker. How I wish the picture that you are seeing here could be colored. The first picture, a section of the road beyond the Sirinde road --- and the second, section of the road showing where---

Hon. Muhulah: Point of correction Hon. Temporary Speaker!

Temporary Deputy Speaker
(Hon. Abayo): Yes, Hon. Muhulah!

Hon. Muhulah: Hon. Temporary Speaker, I am wondering why I am bringing to the attention of the Hon. Chair for Roads about Sirombi and Sirinde and these things keep on repeating. Can he clear to us if he is indeed the first statement or the first information we are getting from him is from Sirinde, Hawinga or Sirombi because even the pictures we are using here are pictures of Sirombi!

Temporary Deputy Speaker
(Hon. Abayo): The second time Hon. Apiyo, we would not want you to be a source of misinformation to this House. The Hon. Member has raised the concern, the issue is, are you sure it is a typo error? The Hon. Member for West Alego and the person who brought this particular Statement is saying, even as per the photos, this is Sirombi and not Sirinde and therefore anything Sirombi and you want to change it to Sirinde is bordering misinformation. Could you be very precise so that you are not misinforming.

Hon. Apiyo: Mr. Temporary Speaker, I think Hon. Muhulah is the Hon. Member of this place and he stand to guide us through out, I can't know all the roads from his place but he can stand to correct me! Hon. Muhulah, kindly keep on guiding us on this report till the end.

Temporary Deputy Speaker

(Hon. Abayo): If we are going to have gross misinformation as it stands today, then we are handling a wrong document that should be corrected.

Yes, are you a Member of the Committee?

Hon. Willis: I am not a Member of the Committee Chair; I am on my feet just to request the Hon. Chair for Roads, that if a document is not clear, then they should take it back for reconsideration.

Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. Apiyo! As the mover, you have had the comments made. I want to give you a chance.

Hon. Apiyo: Mr. Temporary Speaker, the report is okay, it's only the names of the roads; I tried calling my Clerk...

Hon. Muhulah: Point of clarification Hon. Temporary Speaker!

Temporary Deputy Speaker

(Hon. Abayo): Yes, Hon. Muhulah!

Hon. Muhulah: Hon. Temporary Speaker, even the information being relayed here is not even correct, because the CEC is misinforming the Committee! Sirombi Road – that this road was a project of 2013/2014. It was allocated funds and was actually given to the Hon. Governor's sister who never did anything! Then they did allocate another fund of Kshs. 1.2million for the grading and also culver ting. They did it but did not finish. That is the information that the Hon. Chair is saying that only 100meters was done grading and gravelling. Then I added another amount of money, about Kshs. 1.8million. The information that is captured here is not factual!

Hon. Minami: Point of order Mr. Temporary Speaker!

Temporary Deputy Speaker

(Hon. Abayo): Yes Hon. Booker!

Hon. Minami: Thank you, Mr. Temporary Speaker. I am a Member of this Committee and if the Member had that information he is trying to relay then he would have not asked the question. I think, let us help the Chair---

Hon. Muhulah: Hon. Temporary Speaker, I think that one is so much controversial because I did not ask that there was no money that was allocated, I only asked when the projects are going to be completed!

Temporary Deputy Speaker

(Hon. Abayo): Order, order!

Hon. Minami: Let us look at annex no. 1; it is the Statement request that was brought in this House by the Hon. Muhulah.

1. Explain why the construction work along the Hawinga-Sirinde , so what we should be discussing is Hawinga-Sirinde road. If it is not in this report, then the report is misguiding us.
2. We should be talking about along Sirombi road. If that is not within what the Chairman is reading then we are misleading the House. Let us not go into other issues, if that is not what the Chairman is reading then this report is misleading and as a Member of this Committee I will request that I am also supporting what Hon. Willis has said that we withdraw this report. We don't have to discuss a matter that was not brought in the House by the Hon. Member. Thank you.

Hon. Muhulah: Mr. Temporary Speaker, I wonder what was the contentious issue here! That is what I was saying in simple English!

Temporary Deputy Speaker

(Hon. Abayo): Hon. Muhulah, you have not been given a chance, you are out of order. Yes, Hon. Shaban!

Hon. Shaban: Thank you, Mr. Temporary Speaker, Sir. I am also a Member of this Committee. I just want to add my voice on what Hon. Booker has said. When we go to CEC roads, the Hawinga-Sirinde Road, in the response we are told the real name of this road is Odianga- Sirinde Road. So, we looked at them separately, we started with Odianga-Sirinde Road and then Sirombe Road. Thank you.

Temporary Deputy Speaker

(Hon. Abayo): Hon. Muhulah, is it the same road?

Hon. Muhulah: Hon. Temporary Speaker, Hawinga-Sirinde Road is the same Odianga Road.

Temporary Deputy Speaker

(Hon. Abayo): So, there is no conflict there!

Hon. Muhulah: There is no conflict! The conflict that is coming here Hon. Temporary Speaker, is that in the Statement where they are supposed to be clarifying the issues of Hawinga or Odianga-Sirinde Road, they are mixing it with Sirombi Road!

Temporary Deputy Speaker

(Hon. Abayo): This is my last clarification that I am seeking, is it that it is the names that have changed or even in terms of substance? The river with the logs, Is it Sirombi or it is Sirinde?

Hon. Muhulah: It is actually Sirombi but again if you talk about the facts about the finances, it is also conflicting.

Temporary Deputy Speaker

(Hon. Abayo): It is also Sirombi here, and not Sirinde!

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Oriaro: Mr. Temporary Speaker!

Temporary Deputy Speaker
(Hon. Abayo): Yes, Hon. Oriaro!

Hon. Oriaro: That should be a point at grand corruption and I can give a practical case that at one point in my Ward, there is a road called Agulu-Ligan Wan that I had adequately allocated money to it but later on you realize the name is reversed and funding is twice, such that when you are not keen in this, we may even end up paying twice. Could be he allocated this and when the name is changed, another allocation is done.

Temporary Deputy Speaker
(Hon. Abayo): Hon. Members, the Chair would want to direct that, looking at the substance that has been stated and the facts relayed, I want to defer this report and ask the Hon. Committee to be able to look at the facts stated and that the right information be put in the right place so that this House can be able to handle a document that has all the facts as per the ground and as per the facts that avail to the Committee and proven that this is the position. I want to urge the Chair that this be withdrawn, be looked at then we have the right report. Thank you.

(Applause)

Next order!

Hon. Apiyo: Mr. Temporary Speaker, I have two reports which I want to withdraw both. My clerk is there and I really to know what really happened! If he can confuse and mix the issues of the roads! I want to take this opportunity to apologize as a Committee before the Hon. House. We will bring back the report with full details of the roads. Thank you.

Temporary Deputy Speaker
(Hon. Abayo): Hon. Apiyo, be informed that any document that has come to the Floor of this House remains under the jurisdiction of this House. As directed by the Chair, the ongoing report be deferred and shelved for reconsideration. The Chair will want us to look to the next order, unless Hon. Apiyo is telling us that even the next document has mistakes! That is what I am ruling that that is not under his jurisdiction. Next order!

MOTION

PROJECT MANAGEMENT COMMITTEE
PAYMENT IN CENTRAL SAKWA WARD

Temporary Deputy Speaker
(Hon. Abayo): Hon. Apiyo!
Hon. Apiyo: Thank you, Mr. Temporary Speaker. THAT this House adopts the report of Committee on Roads, Public Works, Transport and Communication on project management committee payment in Central Sakwa.

Temporary Deputy Speaker
(Hon. Abayo): Hon. Apiyo, can you move that Motion?
Hon. Apiyo: I am moving. THAT this House adopts the report of Committee on Roads, Public Works, Transport and Communication on project management committee payment in Central Sakwa Ward laid on the Table of this House yesterday in the afternoon at 2.30pm. I call upon Hon. Omar Shaban to second.

Hon. Shaban: Thank you, Mr. Temporary Speaker, Sir, I rise to second.

(Question proposed)

2016 SIAYA COUNTY ASSEMBLY DEBATES

Hon. Apiyo: Thank you, Mr. Temporary Speaker. On behalf of the Committee on Roads, Public Work, Transport and Communication, I want to read the Committee's mandate on this report.

The Sectorial Committee on Roads, Public Works, Transport and Communication is constituted under the Standing Order 200(5) read in conjunction with the Second Schedule of the same, and is mandated but not restricted to;

- All matters related to County transport, including County Roads, street lighting, traffic and parking, public road transport and ferries and harbors, excluding the regulation of international and national shipping and matters related thereto; County public works and services including storm water management systems in built up areas, firefighting and disaster management.

The Committee Membership is 13. I have the honor and privilege on behalf of Members of the Committee on Roads, Public Works, Transport and Communication, to present the response on the Statement request by Hon. Joannes Andiego, MCA on the Project Management Committee Members' payment in Central Sakwa Ward.

BACKGROUND INFORMATION

On 22nd March, 2016, Hon. Joannes Andiego did issue a Statement request (*see annex 1*) in this Honorable House and sought response on the following issues:

- a) Why the Project Management Committee Members (PMCs) supervising the construction of twin staff houses at Serawongo

Dispensary contracted to Marwa Contractors LTD in C. Sakwa ward were denied supervision fee.

- b) The circumstances under which a Project Manager of another Sub County was asked to sign documents under the control of another manager that is the Project Manager of Alego Usonga Sub County signed payment certificates for work done totaling to Ksh. 1,171,170.80 instead of the project manager of Bondo Sub County where the project resides.
- c) To provide the exact guidelines showing payments made to each PMC member taking into consideration the total amount meant to be deducted from the project.

Annex 1 Mr. Temporary Speaker, is Statement from Hon. Andiego, which was committed to the Committee on 23rd March. Annex 2, there is a letter there which came from the C.O., Eng. Joel Oduor. The letters reads, it was committed to the Assembly Clerk.

Temporary Deputy Speaker

(Hon. Abayo): Hon. Apiyo, you will realize that the report you are reading is incomplete. You have got into annexes on page 6, 7 and 8 are missing, that means this report is incomplete. The Chair is also noting that this particular report is not owned because nobody has signed it. I want to raise very serious concerns with the desk of the office of the Clerk that you bring a document that is not complete to this particular House--

Hon. Awuor: Mr. Temporary Speaker, point of information!

Temporary Deputy Speaker

(Hon. Abayo): Hon. Awour, the Speaker is on his feet and if you want to make any

2016 SIAYA COUNTY ASSEMBLY DEBATES

comment, wait for me to finish! This is not owned, it is incomplete---

(Interruption)

Temporary Deputy Speaker

(Hon. Abayo): I don't think I will want to wait as Chair that we would be able to give room to discuss a document that is not complete, that is not owned. I want to ask the desk of the Clerk to be sure that always the documents are in proper shape and also to ask the Chair on behalf of the Committee that before they start to present or before reports are brought to this House, they are able to validate that the documents are in place as required.

This particular report is withdrawn and referred to the Committee to be able to fill it up. Hon. Awour, do you still have comments to make?

Hon. Awour: Mr. Temporary Speaker, you made a ruling but I just wanted to comment where the Chair is supposed to sign on behalf of the Committee. Under the new rule where we just present the reports directly from the Executive, those reports don't belong to the Committee. This morning I did present several reports and I asked the Clerk for the provision of my signature. The report that I got is that ---

Hon. Muhulah: Point of order Mr. Temporary Speaker!

Temporary Deputy Speaker

(Hon. Abayo): Hon. Awuor, are you sure this is a response from the Executive or a report from the Committee?

Hon. Awour: If am given time I will say what I was told.

Temporary Deputy Speaker

(Hon. Abayo): Hon. Awour, can you take your seat? And if you have not confirmed Hon. Awour, I want to inform you that you

are extremely out of order because you did not take your time to identify which document we are dealing with. The document stands withdrawn as stated by the Chair.

(Applause)

Next order!

ADJOURNMENT

Temporary Deputy Speaker

(Hon. Abayo): Hon. Members, before we rise for adjournment, I have stated and I want to remind the office of the Clerk that never should we have such adverse confusion again because you had all the time to confirm. This is not the responsibility of the Committee Member; this is the responsibility of the office of the Clerk together with the Clerk of that particular Committee. It is unfortunate and I want to state that we should never have such level of confusion in the House again like what we have witnessed.

Hon. Members, can we rise for adjournment.

(Hon. Members rise for adjournment)

Temporary Deputy Speaker

(Hon. Abayo): Hon. Members, having exhausted the agenda of the Order Paper, this House stands adjourned until tomorrow at 2.30 p.m.

The House rose at 3.30 p.m.

2016 SIAYA COUNTY ASSEMBLY DEBATES

THURSDAY, 24TH NOVEMBER, 2016

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

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

PRAYER**COMMUNICATION FROM THE
CHAIR**

Hon. Speaker: Hon. Members, I wish to make the following Communication:

1. PETITION BY FORMER COUNCILORS

The Committee of Justice and Legal Affairs, having received a Petition yesterday from the former councilors, is directed to meet on Monday at a time and venue of their convenience to roll out the implementation processing of that Petition.

**2. NEED FOR COMMITTEES TO OBSERVE
TIME WHEN OUT**

There is a general concern that when our Committees go out to meet the public, they need to observe time so that when they tell the community that they are meeting at nine then it needs to be nine. There is need to ensure good coordination with the participants including the membership of the Committee itself to ensure there is quorum. That has risen because we have situations where members of the public feel that we attend late or we don't have enough quorum. Case in point I will share with the Chairperson of the concerned Committee of a visit they made to Central Sakwa last week. We will handle it in-house. Thank you.

Next Order!

NOTICE OF MOTION

Hon. Speaker: Hon. Members, I am informed that the Motions which were supposed to be processed today, the Chairpersons have communicated that they will just give Progress Reports and a commitment to proceed next time under Order numbers 8, 9, 10. Next Order!

STATEMENT

Hon. Speaker: We were to get a Statement response today from the Committee of Water. Any update on it?

**STATEMENT RESPONSE BY THE
CHAIRPERSON, WATER COMMITTEE, ON
THE SHORTAGE OF WATER IN THE COUNTY**

Hon. Agoko: Mr. Speaker, Sir, on behalf of the Chair of the Committee on Water, Environment and Natural Resources who tasked me with this job, kindly allow me to read the Report.

Hon. Speaker: Kindly proceed!

Hon. Agoko: Mr. Speaker, Sir, the Sectorial Committee on Water, Environment and Natural Resources is constituted under Standing Order 200(5) of the Assembly Standing Orders and is mandated but not limited to all matters related to water, sanitation and irrigation services. The Committee has the honor and privilege to Table the response to the Statement request by Hon. John Gare and Hon. Joseph K'awuor on water shortage in Siaya County to this honorable House.

Mr. Speaker, Sir, the Statement sought response on the following issues:

1. The origin of the water shortages currently being experienced,

2016 SIAYA COUNTY ASSEMBLY DEBATES

what the Department of Water has done or is doing to salvage the situation and timelines indicating when the residents shall get reprieve from the adversity.

2. The cause of the ongoing strike by SIBO workers and the impact of the strike so far and explain interventions that the department has considered and further explain interventions that the department has considered and possibly rolled out to restore normalcy in the water supply system in this County.

Mr. Speaker, Sir, the Committee sought responses from the Executive vide a letter dated 22nd November, 2016. The Executive responded to the Statement on 23rd November, 2016 and Mr. Speaker, Sir, allow me to now read the response from the Office of the County Director of Water.

It is titled; Response to the Statement Requested by Hon. John Gare, MCA West Sakwa and Hon. Joseph K'awuor, MCA Yala Township.

1. The origins of the water shortages currently being experienced, what the department has done or is doing to salvage the situation and timelines indicating when the residents shall get reprieve from the adversity.

I wish to confirm that there has been no water within the area served by SIBOWASCO with effect from 14/11/2016. The schemes affected are Siaya, Bondo, Sidindi-Malanga (Yala), and Ugunja, Segwa, Ukwala, Mauna, Asembo, Ndori and South Sakwa water supplies. This was as a result

of strike initiated by the unionisable employees of the company. The union gave the Board of Management a 14 day strike notice which expired on 14/11/2016 and since no efforts were made by the SIBO Management to sort out their grievances, they resorted to the strike action thereby paralyzing service provision in the named schemes.

The Department has tried to mediate between the two factions by holding separate meetings with the employees and the Board of Management on 15th and 21st of November, 2016 and then together on 21st November, 2016 to agree on a return to work formula. The meeting that was chaired by the County Labour Officer however ended in a stalemate.

The Department is still consulting the stakeholders' i.e. LVSWSB and WASREB and exploring various options on the table to ensure that service provision is restored.

2. The cause of the ongoing strike by SIBO workers and the impact of the strike so far; further explain interventions (if any) that the department has considered and possibly rolled out to restore normalcy in the water supply system in this County.

The cause of the ongoing strike by SIBO workers is mainly due to failure of the Board of Management to pay the workers their September and October salaries amounting to Kshs. 4 million among other grievances presented in their memorandum to the County Secretary and copied to us.

The Department as earlier indicated, tried to meditate between the Board of

2016 SIAYA COUNTY ASSEMBLY DEBATES

Management and the employees on a return to work formula although this has not borne fruit. The Department also notified the County Secretary of the situation, and Mr. Speaker, a copy of the letter has been attached, to intervene in the matter so that a lasting solution is found.

The Department has also received a written request from the Board of Management for a loan of Kshs. 2,100,000 to offset the net salaries arrears and payback before the financial year ends. However, the Department does not have such a vote in the budget. A copy of the request letter has been attached.

The CEC -Water, Irrigation, Energy and Natural Resources, being a member of the Board of Directors is meanwhile in touch with the Chairman of the Board and Managing Director for the need to call for a general meeting to be attended by the shareholders i.e. the County Government. The sole agenda of the meeting would be the performance of the Board of Directors of SIBOWASCO. This meeting is envisaged to come out with the way forward with regards to all the issues that have been raised.

Mr. Speaker, Sir, the letter has been written and signed by Henry O. Juma, Ag. County Water Director, County Government of Siaya.

Attached is a copy of the letter that was sent to the County Secretary. I don't think I will have to read it since Members have copies.

Attached also is a copy of the minutes of a special Board of Directors meeting held on 18th November, 2016. Mr. Speaker, Sir, I don't wish to read that too.

Hon. Speaker: You don't have to. We have captured their response.

Hon. Agoko: But I can read another letter from the Kenya County Government Workers Union SIBO Branch to the County Secretary on their planned peaceful demonstration.

It reads: Your attention is drawn to the above subject matter and our meeting between yourself and our members in your office today. You requested that we put our grievances to your office in writing requesting your intervention on the same, bearing in mind that the management has not provided for a sound return to work formula which should put on the ---It's not very clear, Mr. Speaker, Sir; let me leave it at that.

Hon. Speaker: Thank you. Any supplementary question from that response?

(Hon. Gare stood up in his place)

Yes, Hon. Gare.

Hon. Gare: Thank you, Mr. Speaker, Sir. There are some areas that are still not convincing to me. In our Statement we wanted to know if there is anything that can be done for our people to get water. We asked what the Water Department was doing to salvage the situation and the timelines. From the response it is not very clear.

It means our people are still going to be without water and we don't know when the situation will be salvaged. I was expecting them to tell us that as the situation continues, they have identified other places where water can be gotten so that the residents of this County continue not to suffer.

You look at the Bondo Sub-County Hospital and how pathetic things are. The

2016 SIAYA COUNTY ASSEMBLY DEBATES

markets are in very bad conditions and if we are not careful, very soon there will be a cholera outbreak. I wanted to know if there is anything the Department can do to rescue the pathetic situation. It can even require us to have water bowsers taken to critical facilities like the hospitals. But from the response here, there are no timelines and it is not clear when our people will get water. So, I cannot sit down and say that I have gotten a response while when I go back home they will be asking me when they will get water. I am still not convinced with this response, Mr. Speaker, Sir.

Hon. Muhulah: Thank you, Hon. Speaker. One thing I must say is that this House deals directly with the CEC Water and not the Acting Director of Water. Any response that is to be given to this Hon. House cannot be written by the Acting Director of Water. We expected the County Government of Siaya to take this issue very seriously given its magnitude.

It is very unfortunate what the Member for West Sakwa has just said that the situation at the Bondo Sub-County Hospital is pathetic; the markets are dirty and soon this thing will hit our schools and colleges very hard and possibly result into strikes. I am wondering why the County Government of Siaya cannot take this matter seriously yet there are two CECMs sitting in the SIBO Board of Directors. The CECM Water and his Finance counterpart sit in that Board.

key members of that Board may not be living in this County and so what our people are going through is strange to them. What was sought for in that Statement was a

As members of the Budget Committee, we are privy to the fact that this is one institution that was supposed to have been disbanded three or four years ago. You cannot have a profit making institution that cannot sustain itself. The two CECs should have acted on this.

The reason why the unionisable staffers are on strike is very genuine and valid and there is no reason why they should be condemned. They have not been paid! The institution bills its consumers and the question is; where is this money going? That Board should go home! If it were not for the suffering of the people of Siaya County, I would have encouraged those people to continue with their strike until they are paid their monies and until the Board goes home.

Mr. Speaker, Sir, as the Budget Committee, we were approached to approve Kshs. 12million for SIBO and they have been given such amounts of money for the past three years now. It's totally unacceptable! What we are telling the Water Committee is to ensure that a solution is found and the people of Siaya have water. Failure to that, we will not allocate money to the Department of Water nor SIBO until that Board goes home. Thank you!

Hon. Andiego: Thank you, Mr. Speaker, Sir, for this opportunity. The issue of water shortage in this County is almost getting out of hand, Mr. Speaker, Sir. It is sad that some of the solution to a problem which is getting out of hand.

I come from Central Sakwa which borders Lake Victoria and it is sad how you see people waking up very early in the

2016 SIAYA COUNTY ASSEMBLY DEBATES

morning carrying water jerricans headed to the lake. Even women old enough to be our grandmothers are not spared. I wonder how our hospitals and schools are coping up with the situation. In view of how things are going on, I think it is now time for the big man to come in and find out a solution to this problem.

I called the SIBO Chairman this morning and he told me that he is outside the Nyanza region and what he told me is totally different. He told me that the workers are on strike because there is somebody who squandered SIBO's money and was removed out of office and so, the workers are saying that if this person cannot be reinstated, then they will not go back to work. Should the people of Siaya suffer because somebody has been relieved of his work? It is sad. Mr. Speaker, Sir.

I also called the Chief Officer Water and asked him what the Department is doing to address the situation and he told me that this issue is now beyond them. As Members of this House, we are representatives of the people and it may even force us to walk into that Department and demand that our people must get water tomorrow. It is sad that our people have no water and we are in this House representing them. I would have wished that even if it is at 8.00 a.m. tomorrow morning, Members can walk to that Department to see what the matter is. If we don't come in now, our people are going to suffer and we are going to use more money than what we should spend in addressing this issue now. Thank you!

Hon. Oriaro: Thank you, Mr. Speaker, Sir. The Statement request to the matter at hand was truly people centered. It

was a democratic statement but unfortunately the answer is more of autocratic and I think it will be prudent enough for the Committee to go back and do its proper work. I want to agree with Hon. Andiego that the onus probandi rests with this House.

Mr. Speaker, Sir, allow me to talk from a point of information; true information because we are out for problem solving and not politicking. Courtesy of a National Government directive dated mid-2013, there was a formal communication to all the 47 County Governments, Siaya County Government included. The letter was written to the CECs Water and Finance that from that specific date, the National Government removed itself from poking its nose into matters of water management. What I mean is that courtesy of that letter which we can Table, the water sector was 100% devolved.

I am aware, Mr. Speaker, Sir, on a very strong note because our Committees are extension of this Hon. House and they have got all the powers. This letter was brought to the attention of the Water Committee and fortunately, being a member of the Public Accounts and Investments Committee, the other week we were interrogating the SIBO people in conjunction with the KENAO officers in regard to the latest Auditor General's Report and I want to confirm to the House that we may be blaming the SIBO and the problem is not theirs. There are CECMs in the SIBO Board of Directors. So, the County Government of Siaya is to be blamed. If the provision and management of water was devolved, who should be paying for the

2016 SIAYA COUNTY ASSEMBLY DEBATES

salaries of the workers? Was it budgeted for? Where is the CEC of Water? At the Departmental level, both he and the Chief Officer should have pushed for budgetary allocation of the workers payments.

Mr. Speaker, Sir, there is a big contradiction in so far as the laws governing the administration and provision of water are concerned. The current Water Act, and we have got legal professionals in this House, zero rates water. Water is a social commodity that should not even be sold out. Going by the current state, data has it that for every 1,000 litres of water, any water company in the Country should not sell it at a level beyond Kshs. 65,000.

For every 1,000 liters of water it should be sold at Kshs. 65,000 with the hope that with proper improvement and investments in the water sector, finally the water will be free. So, now that water has been brought to the Counties and ours is a case of politico financial; we do know when funds are available. It would be impossible for us to produce water and sell it at that rate or even far much below.

Another aspect that really hurts, Mr. Speaker, Sir, is that when the National Government used to manage water, they used to provide chemicals; they used to cater for electricity bills. We recall when you, Mr. Speaker, Sir, acted as the Governor for Siaya County; it is this team that went to negotiate with KPLC to sort out the bill. The National Government would cater for the chemicals and power bills. SIBO was not meant to be profit making; the monies they got were used to repair the asbestos pipes.

So, the true picture here, Mr. Speaker, Sir, is a quest for harmony. All

heads be brought together. Otherwise, we will be playing politics and at the end of the day we would have solved nothing. The National Government should devolve water management to a level whereby the resources are also devolved to the extent that its management can take the form of the previous times. Otherwise, I am at pains to recommend what should be taken forth. Thank you.

Hon. Apiyo: Thank you, Mr. Speaker, Sir. Indeed water is life. Yesterday, somebody called Radio Ramogi from Bondo blaming the area MCA for the water crisis in the County. It made me wonder how our people think we have the keys to everything.

Yesterday, during lunchtime, Hon. Booker and I interacted with some SIBO staff members and they confirmed that the problem is not the County Government per se. They confirmed that the County Government has been funding SIBO but the problem lies with the management of the water company. They are the people messing up the people of Siaya. The SIBO Board of Directors and the management should tell us where they take our monies. Our people are being billed and you wonder where the money goes.

This response is not enough! This is rubbish! They are trying to cheat us! It is the management stealing from the people of this County. The staff have confirmed this! We cannot just sit here as Hon. Members and watch as the situation gets worse. I want to support the sentiments of Hon. Andiego that we should even move to SIBO offices so that they tell us why we cannot have water. In dealing with this matter, we need to have the management and the staff in a bid to get

2016 SIAYA COUNTY ASSEMBLY DEBATES

the truth or else, we will be taken round in circles. It is the truth that shall give the people of Siaya water which they so need. Thank you!

Hon. Oketch: Thank you, Mr.

Speaker, Sir. Allow me to also add my voice to this debate. Siaya is in a calamity. Water is life and we see our women out there really suffering because for them to get water, they cover very long distances. Water vendors have also hiked their prices. You find that a 20 litre-jerrican of water goes for Kshs.70. I think the SIBO Board of Directors should just be disbanded. Thank you.

Hon. Aneme: Thank you, Mr.

Speaker. The Statement response which has just been Tabled is not answering anything. The questions raised by the Hon. Members touched on the origin of the water shortage and the cause of the strike, but when you go through this document, it talks about staff, the strike, the labour organization and other things.

Mr. Speaker, Sir, we are almost proceeding for recess, but I would plead with the House that we deal firmly with this issue first. Just as Hon. Gare has said, I was also at the Bondo Sub-County Hospital yesterday and the situation is pathetic. The bedding are stinking. If this situation extends to next week, then we are going to have an outbreak of diseases. Members, we cannot go on recess without solving this problem. Let's have a special meeting here tomorrow and call the SIBO people. That's my take, Mr. Speaker, Sir.

Hon. Speaker: Hon. Members, allow me to advise that Committees are functional even when we are on recess and there should be no feeling that everything

should only be done in the House. We don't want to put our Assembly in a situation where we say we want to solve a problem which we are unable to solve. If for example we don't close for one week then we pass a resolution that people be fired then they not fired so?

It is not this Assembly that will carry water and deliver. What I want to advise is this; that was a Statement response that was delivered by the concerned Department. I want to direct that the Committee now addresses itself to that matter fully and more meaningfully. The Committee should tomorrow visit the places where there is crisis. Be it the hospitals, be it in the communities or market places and then meet the relevant officers. When you have a solution, ask us as a House, we will use the Assembly procedures and the Standing Orders to call for a special sitting and we do a resolution that is favorable to help the people of Siaya.

We cannot as a House carry placards led by your Speaker going to remove somebody from the office. We have to procedural. But the House Committee can do what is within their mandate because the response therein is not something that the Committee can do anything about other than interrogating it further.

So, the Committee having heard our comments and the Chair is keenly listening and taking notes, they can call a meeting tomorrow morning, look at the report and collect the views which have been put across today and then be on the move. You have tomorrow and Saturday. Monday we will be here and if need be, we will take

2016 SIAYA COUNTY ASSEMBLY DEBATES

action. I want to ask that we leave it at that point. Chair, do you agree with that?

Hon. Agoko: Obligated, Sir. We will take action.

Hon. Speaker: Thank you! Next Order!

MOTION

Hon. Speaker: Yes, Chairperson, Committee on Implementation, do you have something to say?

INQUIRY BY THE IMPLEMENTATION
COMMITTEE

Hon. Oriaro: Thank you, Mr. Speaker, Sir. As regards this Motion, going by the consensus among Members present and in view of not only the size of the document, but also the fact that the outlook of the Report and the Motion attached to it is legal in nature, Members had requested that they be given time to study it so that when we come back we will objectively have a look at it. So, Mr. Speaker, Sir, I adjourn the Motion. Thank you.

Hon. Speaker: There being no objection, I think we can suspend the debate to the next sitting.

(Motion adjourned)

Next Order!

MOTION

REPORT OF THE HEALTH COMMITTEE
ON THE STATUS OF WASTE DISPOSAL AT
AKALA AND KAMBARE MARKETS

ADJOURNMENT

Hon. Were: Mr. Speaker, Sir, I wish to request the House to postpone the debate on the Statement request by Hon. Peter Ombee, MCA South Gem Ward. He is in Nairobi and it will be prudent that the House allows him to take part in the debate.

Hon. Speaker: Agreed!

(Motion adjourned)

Next Order!

MOTION

JOINT COMMITTEE REPORT ON
MATTERS RELATING TO THE OFFICE OF THE
CEC AGRICULTURE

Hon. Speaker: Yes, Chair of the Joint Committee.

Hon. Agoko: Mr. Speaker, Sir, on behalf of the Committee I would wish to move a Motion that this House adopts the Report of the Joint Select Committee of Agriculture, Livestock and Fisheries, Delegated Legislation and Governance and Administration on the Report---

Hon. Speaker: I thought you had consulted the Chair that you intended to suspend it to the next sitting.

Hon. Agoko: Yes, Mr. Speaker, Sir. I request that we adjourn debate on this Report until next time because it is voluminous and the other Members of the Committee are also not there.

Hon. Speaker: Agreed! By the virtue of its volume and the need for further consultation on the same, there being no objection, I permit.

(Motion of adjourned)

Next Order!

Hon. Gare: Mr. Speaker, Sir, I rise on my feet to move a Motion of adjournment for the long recess as per the

Calendar of the Assembly and request that you may call a Special Sitting as and when the need will arise. I call upon Hon.

Muhulah to second.

Hon. Muhulah: Thank you. Mr. Speaker, Sir, before I second, allow me to thank this Hon. House for a job well done in the Fourth Session. The work has been quite laborious but I am happy that Members have been upto the task and delivered. I would wish to remind the Hon. House that they should be ready to be called for a Special Sitting at any given time when there is need.

Having said that, Mr. Speaker, Sir, I stand to second the Adjournment Motion and wish all Members a good time. Thank you.

(Question put and agreed to)

(Applause)

Hon. Speaker: Hon. Members, there being no other business, will you be upstanding for adjournment.

(Hon. Members stood up in their places)

There being no other business, this House adjourns until as determined by our Assembly Calendar and called as and when the need will arise.

The House rose at 3.20 p.m.

APPENDIX

THE HANSARD TEAM

DEPUTY EDITOR

Mr. Tobias, O. Owenje

REPORTERS

Messrs. A, O. Onyango, T, B. Oduor, B, M. Ochieng

Ms. J. Ambunya and Ms. L. Odinga

