

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly – Third Session

Thursday, 8th August, 2019

The House met at the County Assembly Chambers, at 2.30 p.m.

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

PRAYER

COMMUNICATION FROM THE CHAIR

REPRESENTATIVE OF MAJORITY WHIPS IN THE COUNTY ASSEMBLIES FORUM

Hon. Speaker: Hon. Members, allow me to make communication to you in regard to a communication from the County Assemblies forum. Hon. Members, the County Assemblies forum has notified the County Assembly of Siaya of the long awaited communication on the election of one Hon. Samuel Olasi of Siaya County Assembly to be the representative of all majority whips in the Republic of Kenya in the County Assemblies Forum, he will lead that chapter.

Hon. Members, on your behalf and on behalf of myself I wish to congratulate Hon. Olasi and I have the following to tell him; I want you to do your work in the forum with the pride of Jakagwa, the dominance of Ja Alego and the meticulous eyes of Jayimbo.

We want you to have the interest of County Assemblies at heart and serve that forum as though you are serving the County Assembly of Siaya. We wish you all the best in your endeavors and please don't shame us, please make us proud. May God bless you in your new appointment.

Last time I realized I didn't give Hon. Otiato to comment on his appointment and Olasi too.

Hon. Olasi: Thank you, Hon. Speaker; I am so humbled and I didn't expect it to come now but allow me in less than one minute to say thank you Members. I don't hold that position on my behalf as Olasi but in a special way I will start by thanking the people of West Uyoma who brought me here and the Assembly Members of Siaya who chose me to be their Whip.

I think during my maiden speech I promised that I wouldn't let you people down. In the position that I have been elected to serve I will be carrying Siaya with me with a lot of pride. I

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

believe that with you people everything is possible. Let's pray together and I hold this thing on your behalf. May God bless you.

Hon. Otiato: Thank you, once again Mr. Speaker, Sir; I want to say thank you for being recommended to represent the interest of this Assembly in the Inter-Governmental Committee on assets. Mr. Speaker, it's on the trust that both your office and the entire Assembly have had on my abilities to follow up.

You realize that one of the mandates of this particular Committee is to track back the assets and reconcile the asset registers. One of the key audit queries that we have been having is this situation where you find there is investment in the purchase of equipment for the County but they never entered any record especially the assets registers.

We have parcels of lands and vehicles that were gotten from the transitional government that is from the National government, we have got properties that have not been updated like now we have been talking about the property we inherited that we have not been able to know like the tuff construction in Bondo. Some of these are our key areas that we are going to identify and actually reconcile.

One of the perfect examples is where we are taking up a facility from National Government worth Kshs. 25million; Kshs. 10million spent and Kshs. 15million pending but we don't know where the Kshs. 15million goes.

I want to thank your office for the trust they have on me that I can confidently in the few months when we start operating will be able to tell that what do we have from the National Government and what is the status of the property of this County. I promise this Hon. House that I will do my work diligently; I will do what appertains to that particular office in good faith for the benefit of this House, Thank you.

STATEMENTS

Hon. Speaker: Please let the persons who asked the Statements liaise with the various Chairpersons of various Committees and make sure that those issues are addressed or we will have to have a special Sitting to specifically discuss the conduct of the relevant CECMs.

MOTION

REPORT PAYMENT PROCESS AND UTILIZATION OF PROJECT MANAGEMENT COMMITTEES FUND

Hon. Speaker: That Motion had been proposed, it was being debated and in between the Committee brought some amendments which my office admitted and therefore, Hon. Members, I hope the Committee Chair will urge you to replace from page 50 on recommendations. You will be dealing with that Motion as amended. Will you proceed, Chairman?

Hon. Siguru: Mr. Speaker, Sir; thank you very much for having helped me request Members to accept the amendments of the recommendations of the Report.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Otiato: Mr. Speaker, Sir; I would just wish to maybe bring to the attention of the Committee Chair. I don't know whether I will still be interested in changing because I can see something on Table 5 which is a bit contradictory to the other recommendations which are there in page 52.

Whether you will be interested in proceeding with it as that like in number one where claims were not processed here it is indicated that claims were processed and PMC members paid upon the implementation of recommendation number 3.

There is a recommendation that all PMC payment claims so far lodged with the department of Finance for various Wards be suspended. Look at the second on page 52; talking about to be sur-charged as guided in recommendation no.2. I don't know whether you will want us to do those amendments as we proceed?

Hon. Speaker: There is need for persistency, Chair, you will address that. Do they make sense, the observations? That will be part of your indulgence, just bring to the attention of Members that at this particular time for this place we are amending as follows. Proceed.

Hon. Siguru: Thank you, Mr. Speaker, Sir and the Hon. Member who has had a keen eye on the oversight in the wordings in the amendments that we have put on the tabulation that is on Central Alego and an issue of sur-charging. As I move the Motion I will put in positions to discharge the two positions because they contradict the final recommendations. Thank you very much and I am going to correct appropriately.

Mr. Speaker, Sir; I wish to move a Motion:

THAT this House adopts the Report of the Sectoral Committee on Finance, Trade, Industry, Labour and Cooperatives on the payments process and utilization of project management committees (PMCs) funds laid on the Table of the House Tuesday, 6th August, 2019 at 2.30p.m.

Reports of this House on PMC payments dated; May 2018, Nov 2018 and various correspondences dated; 8th March 2018, 23rd May 2018, 22nd Aug 2018, 14th Sept 2018, 2nd Oct 2018, 10th Oct 2018, 17th Oct 2018, amongst others; can testify to the fact that the Committee has exercised a comprehensive oversight over the management of and utilization of the Projects Management Committee (PMC) Funds in the County pursuant to the Siaya County PMC Policy 2015(*annex 01*), the Public Finance Management (PFM) Act 2012, County Governments Act and the Constitution of Kenya, 2010.

After a long wait on the payments of allowances to PMC members across the County, the County Government—through the County Department of Governance finally issued a communication to the Ward Administrators to prepare and submit payment requests for considerations and approval for payment. In Oct 2018 through to Feb 2019, various payments were processed and made to Ward Administrators for subsequent payment of PMC members for specific projects in their wards.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

According to the records given to the Committee from the County Finance Department, a total of Kshs. 32,506,975.00 were paid to 29 Ward Administrators for subsequent payments to the individual PMC members for various projects in their wards.(See annexure -02)

However, claims of misappropriation of and unauthorized payments from the PMC funds emerged. Issues of; falsification of, and unauthorized documentation, suspicious claims, ghost payments and non-remittances of the PMC funds to the intended beneficiaries as required by the PMC policy, 2015 and contrary to the PFM Act 2012, emerged.

The Committee, via statement requests by various members, sought responses on the procedures, processes and utilization of the PMC funds by the County Executive; especially on all payments made from the PMC account –both to the ward administrators, PMC members or elsewhere- based on the PMC account balances earlier reported to this House via correspondences dated 8th March, 2018 and 23rd May, 2018 and the commitments and committee recommendations thereon as of then.

The following are the three major issues that the Committee committed to deal with in order to guide the House in settling the PMC payment issues;Evidence of all payments made from the PMC account since the advent of devolution and the purpose of the payments with evidences/ justifications of the payments.

Evidence of procedural and legal use of the PMC funds so far paid for the intended objectives as per the PMC policy and any other relevant regulations on management of public funds. Such may include; evidence of official receipt of payments by the ward admins, individual PMC members for various projects and any other relevant officers.

The fate of the PMC account balances –owing from the 5% deductions made per project since the FY2015/2016.

The concept of the Project Management Committees is meant to involve the views of the people in general execution of all projects and activities of the County Governments in line with the provisions of the Constitution of Kenya 2010 and related legislations on Public Participation. The concept is executed based on County specific legislations and policy guidelines unique to each jurisdiction but all in the fulfillment of the provisions of the Constitution of Kenya 2010 on public participation.

The concern over payment of PMCs was first highlighted by the Roads committee in one of their reports on project implementation of various projects tabled and adopted by this House.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

This was responded to via a letter dated 8th March 2018 (annexure 03). In the response, the County Chief Officer in charge of Finance, stated that;

The PMC account had a total of Kshs. 110,031,525.66 comprising of Kshs. 22,714,652.60 and Kshs. 87,316,873.06 for FY2015/16 and FY2016/17 respectively.

That the PMC funds were utilized in the FY2016/17 for payment of contractors due to liquidity constraints. The amount that was utilized was, however, not stated

That the Finance department had reconciled the payments and deductions made from the PMC account and the same were to be refunded back to the account for subsequent PMC payments in the month of May 2018

In another response to PMC issues raised by Hon. Francis Otiato via a statement request, the County Executive chief officer for Finance and Economic planning responded via a letter dated 23rd May 2018 (annexure 04), thus;

That all project committee members in the County had not been paid. He cited inadequate documentation in the claims for payments as the reason for the delay in payments;

Properly documented claims worth a total of Kshs. 3,015,000 had been received by the date of the response (23rd May 2018) and were being processed for payments then;

In another correspondence on PMC payments sent to the executive via letter ref SC/CORR/C.EXEC/18 Vol. XII-24 dated 2nd Oct 2018 (annexure 05), The County Executive department of Finance responded via a letter dated 10th Oct 2018 (annexure 06) and stated as follows;

The 5% PMC costs were deducted from project payments from the County Development Account but not remitted to the County Deposits Account thus creating a surplus in the County Development Account

The PMC funds in the County Development Account were then used to pay some projects. However, the executive is not in a position to identify the specific projects paid using these funds since the funds were in a pool at the County Development Account

That the PMC funds used to pay some projects have since not been refunded because of purported delays in exchequer releases experienced in financial year ending June 30th 2018

That the County treasury has since processed and paid PMC claims of approximately ksh.5 million by the date of the response (10th Oct 2018)

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

That the County Deposits account has always had enough funds to pay PMC allowances/claims.

Analysis of the PMC payment records revealed the following common anomalies; Scanty records of minutes per project meeting for which the PMC allowances were paid, Evidence that the individual PMC members received the payments, Letters of appointment of PMC members who were paid –per project. List of PMC members –per project and their current contacts

In the absence of these records and a comprehensive report on the PMC payments, the County Department of Finance and the County Department of Governance failed to justify the following; Justify the existence of the PMC members so paid? Justify the receipt of the payments so made to the PMC members?

Why PMCs are paid a flat rate of ksh.33, 000 per project irrespective of the 5% deduction per project cost? What other project management costs do the PMC balances from the 5% deductions per project pay?

During committee meetings with the Ag. CECM Finance and the CECM Governance on 26th March 2019 and the 11th April 2019, the County Government requested for more time to investigate and provide comprehensive details on the PMC payments through a County Government of Siaya Internal Audit Report on the PMC payments.

The audit report was however not availed to the committee as earlier indicated by the CECMs. However, via a letter dated 23rd April, 2019 (annexure 07), copies of files on PMC payments for all the 30 wards were submitted to the committee by the County Secretary for verifications and analysis.

The Committee therefore acted on the documents in the files submitted and prior records on PMC payments submitted to the committee by the County department of Finance.

The files for all the wards presented had; claim forms prepared by the ward administrators, approved by the chief officer governance for payment claims processed by the County Department of Finance with the approvals of the Chief officer Finance.

The files also had copies of payment returns from the individual PMC members as the purported evidences of receipt of the allowances paid to them by the ward admins. However, Central Alego ward had not lodged any claim for PMC payments as at the time of these investigations.

Based on the information provided per ward, the committee resorted to a field verification of each of the purported payments per ward including but not limited to; the receipt of the allowances by the individual PMC members, the existence of the PMCs and whether the ward administrators actually paid the real PMC members –if any payment was made. Below are the committee findings from the field work.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

The committee conducted comprehensive field visits to each of the wards whose files indicated that the ward administrators made some payments to individual PMC members according to payment return schedules provided in the files (see annexure 07). The field visits were conducted between the dates of 10th to 13 June 2019.

Due to the vastness of the wards and the huge number of projects whose PMCs were purportedly paid up by the wards administrators, the committee; carefully sampled two projects per ward and communicated the names of the PMC members who were indicated as having paid by the ward administrators to ward managers in order to coordinate their availability and attendance of committee meetings at the respective area MCAs offices.

The focus of the field investigations was to randomly verify the following from the PMC members from the respective wards; Whether the ward administrators received PMC funds. How much were paid to the ward administrators. Whether the PMC members per ward received any PMC allowances/ payments from the ward administrators.

Whether the purported PMC members listed to have received payments were the real PMC members for the respective projects. Whether the amounts indicated were the actual amounts received by the PMC members. Whether the list of PMC members provided by the ward admins were the real PMC members; confirmation of their identity details; I.D numbers, names, signatures.

All the wards that we visited we have given a comprehensive Report of what the findings were; the ward that I have mentioned that was Central Alego didn't account for the PMC disbursement.

There are particular wards whose Reports are not appearing here or we have their wards appearing but we never had their Ward Administrators present their reports. An indication that Ward Administrators never turn up in the meetings to give out details on how they made payments.

The committee summoned the County Secretary, the CECM Governance and the CECM Finance to a meeting on the 2nd July 2019.

Top on the committee agenda was to get the official position of the County Executive on the committee findings on the PMC payments.

The committee had noted a number of issues on the PMC payments some of which included; Where is the Kshs. 105,121,154.76 PMC balances after the disbursements to the ward administrators?

(Hon. Okode left the Chair)

(Hon. Madialo took the Chair)

The Temporary Speaker: I was wondering, given that this would require debate by many people. Whether you could just go to the Committee findings and recommendations so that there is sufficient time for elucidation by the several Members who will have an interest in contributing.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Siguru: Thank you, Mr. Temporary Speaker, I am obliged and straight will go to Committee findings which I was just about to get to in the next 3minutes.

Based on a foregoing deliberations, analysis of the records and reports before the committee on the PMC funds, coupled with historical data and information in the custody of the Committee and the House on the management of and utilization of the PMC funds, the Committee makes the following findings;

The committee finds that the County Government of Siaya has continually deducted the 5% Project Management Fees from all project funds. The committee finds that according to the County Treasury, the County Government retained Kshs 137,681,130.76 forming 5% of all projects contract sum during the three financial years.

The committee finds that out of the Kshs. 137,681,130.76, only a total of Kshs. 32,559,976.00 has been disbursed to the Ward Administrators for subsequent payments of PMC members for various projects in the County. This therefore leaves a balance of Kshs. 105,121,154.76 as PMC funds pending with the County Government.

That –according to documents dated 8th March 2018 (annexure 03), the PMC funds were utilized irregularly in the reported payment of contractors and it cannot be established with certainty the expenses funded using the PMC funds and the justifications for the same.

The committee finds that there were widespread falsification and forgery of documents and impersonations in the claim forms and payment return documents prepared by some ward administrators as justifications of misappropriated PMC funds disbursed to their accounts. (See annexures -08 for samples of the forged payment lists and vouchers from various wards.)

The committee finds that majority of real PMC members were not paid their allowances by most ward administrators

The committee finds that there were no clear procedures of payment of the PMC allowances thus widespread abuse of PMC funds by the ward administrators. The County Government failed to offer clear guidelines on the disbursement of and payment of the funds to the ultimate beneficiaries.

The committee finds that there were several concerns from members of the public on the gaps on the PMC policy where: employed county government officials are made PMC members and paid allowances; cases where PMCs are paid at a flat-rate of ksh.3000 per project per member- despite the varying project values –and many other gaps in the payment procedures and processes worth amending the PMC policy and a subsequent bill to address the matter.

The Committee makes the following recommendations owing from a foregoing committee findings on the PMC payment issues:

Based on the committee findings (as shown in the table below) ; -out of the total PMC budgetary allocation of Kshs. 137,681,130.76 in the FYs 2015/16, 2016/2017 and 2017/2018, only a total of Kshs. 32,559,976.00 was disbursed to the Ward Administrators thus leaving a balance of Kshs. 105,121,154.76.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

The Committee therefore recommends that the County Executive Member for Governance and the County Executive Member for Finance submits to this honorable House a comprehensive audit report detailing the status and whereabouts of Kshs. 105, 121, 154.76 PMC funds within 30 days after the adoption of the report failure to which the Siaya County Assembly will immediately initiate and institute recovery of funds on the specific officer(s) who served in the capacity of the CECM Governance & CECM -Finance during the FY2015/16, FY2016/17, and FY2017/18.

The Committee recommends that the County Secretary institutes recovery measures and possible institution of criminal proceedings against the following ward administrators found to have misappropriated funds meant for the payment of PMCs for various projects –as per the Section 3.0, 4.0 and table 4 of committee field verifications and findings.

Furthermore, appropriate disciplinary action be taken on the same Ward Administrators as per the employment Act, 2012 (as listed in the table below). The committee therefore instructs the County Secretary to report, on the initiation of and status of the recoveries of the said funds from the Ward Administrators and the disciplinary measures taken on the officers, to the Assembly Committee on General Oversight within 30 days upon the approval of this report failure to which the committee shall initiate an impeachment process against the then CECM – Governance and Administration for loss of public funds under his watch. Below is a summary of the ward administrators and the amounts to be recovered thereof;

I will replace the word sur charged with the words charged with the recovery; I hope you will allow me; they are only 20. Let me go through them Ward by Ward.

The Temporary Speaker: Hon. Member come again to the recovery and sur-charge; what was your proposal?

Hon. Siguru: I said that the word sur-charge be replaced with recovery.

Hon. Otiato: On the same footing; I think if we are talking about a requirement of sur-charging like the explanation that we heard during the other discussion, we say that sur-charging is part of a disciplinary process and therefore I would on my suggestion if bought by the Chair of the Committee that instead we just say in that particular clause that all these that are supposed to be sur charged as we have seen that appropriate disciplinary measures to be taken and a recovery process be initiated.

I know if we say appropriate disciplinary measures to be taken; appropriate as in when we have a criminal offense committed by forgery then automatically it lands us to section 44 of the employment Act which is summary dismissal.

The Temporary Speaker: Hon. Siguru, Hon, Otiato is right you cannot say disciplinary action be taken and then tell the person to take disciplinary action, which disciplinary action? You either say this is the action that you are supposed to take or you say take appropriate disciplinary action; reason being there are people here who might not be able to account for the money but did not forge.

That punishment cannot be the same as the one for somebody who took the money and went ahead and forged. Also you cannot have a uniformed punishment. Perhaps you take cue

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

from what Hon. Otiato is saying and the Table clerks will then capture that in place of sur-charge in fact even recovery. Appropriate disciplinary action be taken.

Hon. Siguru: The committee recommends that all the PMC payment claims so far lodged with the department of Finance for various wards be suspended until the CECM Governance comprehensively reviews/ revises the Siaya County Projects Management Policy in order to comprehensively streamline the procedures on formation of PMCs and a participatory processes be factored herein. The CECM Governance should submit to the Assembly a reviewed PMC Policy within 30 days upon the adoption of this report.

The Committee recommends that the CECM- Governance puts in place a comprehensive Project Management Bill in order to streamline the management of PMCs and their payments amongst other project management issues including but not limited to; project planning, project budgeting, implementation and monitoring and evaluation.

This Bill should be availed to the House within 60 days upon the approval of this report and after the submission of the revised PMC policy as indicated in 3 above.

The Temporary Speaker: Order Hon. Siguru; are you comfortable as a Committee with the recommendation that impeachment proceedings be initiated? I ask you that because what will you do with a County Secretary who has since left, what will you do with a CECM who has since been transferred to water?

What would you do with a Chief Officer whose term has since expired; is it a recommendation we will be able to implement? Can you impeach a person who is outside office? I am saying that so that perhaps you might have it in your mind on how to reconstruct the recommendation.

Hon. Olasi: Thank you, Mr. Temporary Speaker, Sir; I am comfortable with the recommendations and why do I say so? When you talk of the CECM should be held accountable or in one way be impeached and the CECM is within this County and the specified Financial Year and we cannot fail to get the occupants of the offices then I believe and trust that the recommendation should stand.

Hon. Otiato: I do also stand to agree with recommendations in two grounds; we can only take away what we can give, and therefore, we can only punish those whose appointment is subjected to our approval. Therefore, in this we can only impeach a CECM whose approval has been here. As you get the recommendations here, we expect the response to be taken within 30 days.

We are dealing with a County where we make recommendations but nothing is done! Therefore, if the CECM is not going to take action against these individuals within the next 30 days then he can be removed.

The impeachment has been in two fronts; it has been on the CECM Governance that within this particular time and I think this is a preemptive report to the CECM that you prepare yourself because we will be impeaching you within 30 days. So it is you to organize your house because if there was poor payment, ensure that you pay such that when you come here as

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Committee of Finance and present this document it is upon now the CECM Governance to ensure that he rectifies his house and defends himself within the next 30 days. I still believe...

Hon. Temporary Speaker: Order, Order! Hon. Otiato. The chair only poses a question so that we are able to enforce our recommendations. The chair was only giving guidance but the chair is neutral. So if the House feels that they enforce as it is, the chair will abide, but be warned that while the Public Management Act is in force you cannot force this Government to give you a Project Management Act because finances and regulations guiding finances are supposed to be regulations under Public Management Finance Act.

Therefore, if you were to ask the chair, then the chair would be telling you that you should have recommended that the regulation for Project Management come to you within 40 days not an Act. The chair is only being cautious that we recommend what we can enforce.

One of these recommendations, and Hon. Member I had asked you to amend but you forgot about it. However, one of the recommendations that you cannot enforce is to tell the CECM to do an Act that guides management of finances outside the Public Finance Management Act, which is already in force.

The easiest for our purposes is regulations to follow the policies. A policy is a declaration of what you intend to do and it does not bind, but regulations do. I believe the Committee is guided on that. Can you call someone to second? I would like Hon. Booker, the mover to ask someone to second so that the debate goes on. I have noted that you are on your feet Hon. Siguru and I will give preference.

Hon. Otiato: Thank you, Mr. Temporary, Speaker Sir, for the guidance you have given to the House regarding matters on regulations and policies. I agree that on where we have Acts that we might not be having control over, we will definitely pass and I would urge the Members to pass it as a regulation not as an Act because your guidance makes a lot of sense and you have put it across very clearly.

Having read the report of the Committee, I as the mover of the Motion wanted to emphasis that what we are saying in our County Government and PMC funding being only one of the so many project funds that are outside here is really glaring. It is very serious to see that funds which were created from Devolution can be used as we are noticing is being used here to an extent where by the Executive cannot account for a figure of Kshs. 105 Million, very disappointing in deed!

If everything was right an explanation of the usage of Kshs. 105 Million could not take an ordinary person who does not want to hide facts Four months to present to an Assembly. You noticed the Committee on Finance got frustrated in the process of this exercise and we persisted and maintained until we got to the position we got in, which is where we wanted where we could establish whether these funding really got to the respective Wards.

We really got a disappointing result. We realized that our respective Ward representative administrators just decided to pocket most part of the money that was released to them to give to the PMCs. The tabulations we have given have given an allocation of each Ward on PMC payments.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

When we went through the Wards, we realized that this money never got to the respective Wards, but if it did get there, it was not the exact amount that was released. You find that and I will give an example of East Gem where I come from and represent.

My members were being called and given Kshs. 2000 and forged documents that we were given as a Committee showed alterations of Kshs. 18,000 per person, later on the same members were coached and when we interviewed them they all said that they were given Kshs. 20,000.

Whatever we had in the report and oral submission from the people on the ground indicated serious enormous anomalies. This was done by design and the Ward Administrator pocketed the monies because the money was deposited in their respective bank accounts.

We really want our Government to explain to us if an elected leader in the community cannot be trusted with even salaries of sweepers of the market, which is paid through direct bank accounts of the beneficiaries. What was so unique with the Kshs. 32 million that it could just be channeled to 29 individuals?

We really need to be told where these monies went to, what interest they had to release these monies to individual members' bank accounts. This has to come out very clearly as we demand for the balance of Kshs. 105 Million.

We are in fear as we speak now because the Executive cannot even explain the whereabouts of Kshs. 105 Million, which we were told, and it was reported at some particular time that it was used to pay contractors. We are really wondering what procedure was used in paying the contractors who were given projects based on Budgetary allocations.

Hon. Members, our County is going to the dogs, and it is going under our watch with a very serious role in our hands that we are supposed to be oversighting what is going on. It is time now that we stood up to either be counted for the betterment of Siaya or be part of the rot. I would be very disappointed to stand here as part of the rot because we were not brought here to be part of it.

What you can see here is one out of so many, this is only a PMC funds account report and I am very sure that should we get into serious audit County funding in which we have always been reported to be performing poorly in the Devolution regime.

Our County is performing poorly and we need to be disappointed as leaders of this County. We do not really know what it is that we do not have that others have such that in any rankings done in the 47 Counties we are always in position 43 or 44. All this is in public domain and not manufactured by myself. We really need to accept and say that we have a problem and know where to start addressing it. Hon. Members, in urging you to support the Motion of the Committee I will ask Hon. Olasi to second, thank you.

Hon. Olasi: Thank you, Hon. Temporary Speaker, Sir. Allow me to say this as I second, that in all the 5 recommendations that I am part of, I am ready to stand with at any given moment. To start with, there are two issues that come out; that from the FY 2015 up to 2017 ending 2018 a total of Kshs. 137 Million has been deducted from all the contractors and we have not even talked of FY 2018/2019.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Out of Kshs. 137 million the Executive can only account for Kshs. 32 Million that was wired to Ward Administrators' accounts to go and pay PMCs yet they cannot account for Kshs. 105 million. First of all, we are saying that the Kshs. 32 Million that was wired to Ward Administrators' accounts to go and pay PMCs were misappropriated leave alone the Kshs. 105 million.

I came to learn about this as the representative of the people of West Uyoma around December 2017, and I wanted to put a Statement but later declined because I wanted to know the truth because the CECM Finance went and said here that some money had already been wired to pay the PMC.

So the PMCs from West Uyoma were on my neck. I called the then Ward Administrator who left for Yimbo East, but he could not confirm anything. The people of West Uyoma who participated as PMCs in one way or the other kept on coming to my home, they wanted to know exactly where their monies were.

Come January it was terrible, they wanted as little as even Kshs. 500 from me to take their children to school. By then over Kshs. 870,000 had already been released to the Ward Administrator's account. I took initiative to go and see the then CECM Finance and he confirmed to me that the money had been released.

I am talking here as the representative of people of West Uyoma, I don't want to talk on behalf of other Wards because I have realized that any time someone gets wind of something even if it is from East Uyoma it must cut across and that is their nature. I hear from the report that it was discovered that under roads sometime in May that some money was embezzled in one way or the other.

In January, I wrote a letter and copied to Speaker, CS and the then CECM Finance plus my copy that is here. The Governor's office received theirs plus the CECM and the date is here. What did I write? The copy is here it can be read or be copied to each one of you as follows;

One, I was advising them if they happened to have released the money into two tranches, which was in October and December. So I suggested to them to stop until they confirm that the money that they released to West Uyoma reached the people it was intended for. They did not reply my letter but went ahead to release the third batch to the Ward Administrator in West Uyoma, and how much was it?

In West Uyoma, it was now Kshs. 902,000 sent to the same ward Administrator who had been transferred from West Uyoma to Yimbo East six months ago. Therefore, each time people came to me for the money I had to call the guy but he refused to talk to me.

I came back and talked to the CECM Finance again together with the CS Hon. Anyona, and they promised me that something was going to happen and that those people would be surcharged and they must bring the money back. We are in the month of February and I wrote to them in January.

In the month of February at 9.00 a.m. on a Saturday while taking breakfast in my house with my guests; the people of West Uyoma who also happen to be my employers, I received

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Kshs. 50,000 through Mpesa from the ward Administrator who had been transferred from West Uyoma.

Why Kshs. 50,000? Moreover, the person stealing from the people of West Uyoma is also from there and the people he is stealing from are people from his village. One of them just wanted even Kshs. 1000 to take his child to Rachar primary school, which again is in his village. At 10.27 a.m. I also sent the money back to him because why was he sending me the money yet I didn't ask him for it?

I am saying this out of bitterness because it is true that even the wards that were cleared there was a conspiracy and some people received money and it is across the board. The only clean ward that we can talk of is Central Alego where the Ward Administrator never claimed any money. In other words, I don't stand to be corrected but to be sent out.

(Applause)

You are the betrayers of our people who made us to be here. We are told that Kshs. 105 million was used to pay contractors, who authorized it? To crown it all because I don't want to take much of your time, every project that was done between FY 2014 to 2018 they were deducting 5% to pay the PMCs.

I know of a ward in West Uyoma that cost Kshs. 10 million just for one ward. How much was released from the report? Kshs. 33, 000. A latrine in West Uyoma costing Kshs. 500,000 was given Kshs. 22,000. Is that 5%? What criteria did they use? I can give an example of a contractor who did Kawuondi primary ECDE in 2019 who was paid and 5% deducted also.

We really sympathize because work done by the women and even the youth of 105 are still being deducted and being embezzled deliberately and that is the kind of Government you want us to support!

If you go to annex 8 in the big book, West Uyoma and I can read for instance somebody like Fred Akomo, the Identification Card is correct was given Kshs. 3000 but he didn't sign so they went and added 1 in front of 3 to read Kshs. 13,000, which is something they have done all over.

Again, you can see that for someone like Paul Okundi was given Kshs. 5000 but they added 1 in front of 5 to read Kshs. 15,000; that is fraud and forgery! How can you accept that in this time and era? In addition, he justifies that by paying himself Kshs. 102, 000. This is a report worth supporting. I rest my case.

(Question proposed)

Hon. Otiato: Thank you, Mr. Temporary Speaker Sir. How I wish that you equally possibly put it before we debate that the amendments thereof the said...

Hon. Temporary Speaker: Hon. Otiato, proceed and propose the amendments.

Hon. Otiato: Thank you, Mr. Temporary Speaker Sir. I would wish to move the amendments presented by the ...

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Oriaro: Yes, Mr. Temporary Speaker Sir, as you have observed and that one you had observed even before the Motion had been moved and seconded. Tragically, the report requires radical amendments to have the taste that it deserves. My wish is we contribute then Hon. Otiato does a general proposal of an amendment that will allow considerations after the substantive debate such that when the final report is communicated it is a palatable document.

Even away from myself and other things you heard it from the works team that Central Alego did not request for payment which the report also say the same, but I have got a different story and the plain truth of details not showing their claims are some of the things we needed to unearth.

Lastly, going by matters of Law, our reports like in this should be purely if it is a deviation then quasi illegal and it should be a legal report that can stand the test of time, judicially. That is why my wish is we found and seduced a good girl but in the end did not know what to do with her.

That is the problem we are facing so that we do not just zero in only on ward Administrators because issues of prosecution are not even touched here. Therefore, there are so many things like the abuse of Chapter six of the Constitution.

It entails so many things such that in all our findings we ought to have zeroed in on, because it also a report by PIC /PAC which touches on this a forensic audit by KENAO to help us unearth everything so that finally we will nail all those who are found culpable. However, the way it is it will not stand the test of time when it comes to implementation if you are emotional.

Hon. Temporary Speaker: Hon. Otiato, how many amendments are involved?

Hon. Otiato: Mr. Temporary Speaker, Sir, I can see we are having few amendments but then I will propose the amendments in terms of the pages so that we amend the sections on recommendations as presented.

Hon. Temporary Speaker: So that I know the nature of amendment you want to propose, can you read one for the House.

Hon. Otiato: The amendment we were talking about in line with the regulations in terms of policies and regulations and that was the only amendment, otherwise, the others we captured by the Hon. Member and was just to be picked waiting for your guidance. I was thinking that I bring it up so that it is formal that I have proposed as Hon. Otiato that we change that in terms of an Act or the Bill to a regulation so that we restrict ourselves not to a policy but to a regulation that is binding.

Hon. Olasi: I am of the opinion that you open the Floor for the Members and it seems there will be so many amendments. Therefore, as Hon. Otiato is trying to put it, other Members might have time to put their amendment. I would therefore; request that we just deliberate on the report then at the end of it if possible and the clerks are here we can put our amendments together so that it is taken note of.

Hon. Temporary Speaker: Members, this is not a directive by the chair but Hon. Otiato is right because when you want to take substantive action that includes saying that somebody goes to jail. You cannot stand up casually and say “let us debate, we shall amend,” that is unfair.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

So Hon. Otiato is right in saying that let us go on record so that it is captured that we were proposing that this be changed from A to B.

What we are dealing with, and if you look at the recommendations they include impeachment, and when you say impeach you are saying lose your job and when you say that you are going to recommend that someone loses their job; sincerely you will be doing a disservice to this County and to all of us if it is not put formally.

So that we know that procedure was followed and everything was followed according to Standing Orders and an amendment was then put on the Floor and approved. You know Members, when somebody is losing their job, those people might call up the Hansard that we want the Hansard as evidence.

If the Hansard says that we said that let us just go on and then we will capture some amendments. That is ground for saying that the proceedings were not regular. That would be the position of the chair, but as Hon. Oriaro has observed rightly that there is the danger of doing amendments after this that changes the spirit and substance of the report that we have.

Again, that will not be our report and it might raise questions. Therefore, I am directing on this one that if we are going to say that we shift from policy to regulations then we must do it formally and if we are going to touch on punishment of somebody we must also do it formally and it must go on record that that is what we said and agreed on.

However, the chair will not allow that we can just leave a gap and then allow the secretariat to do editing on such serious matters. The chair will ask Hon. Otiato to formally move a Motion of amendment. Given the pressure of time, I believe we shall not be debating on it.

Hon. Otiato under Order 59 you Move it this way, it provides under Article 5 of it that upon any amendment to leave out word and insert or add other words instead a question shall first be proposed that the words proposed be left out, be left out of the question. Therefore, you may also seek without removing that certain words be added without removing the words that are already existing in the body of the report. That should take you 1 or 2 minutes.

Hon. Otiato: Thank you, Mr. Temporary Speaker Sir. Allow me to move the Motion as follows;

1. That in the Table of recommendation starting from page 52, table 5 under section of recommendations. There are particular areas where we have got under findings; you will find where it is written falsified signatures on payment list, doctored payment etc. where the particular individuals were not cleared. You will find maybe in the corresponding recommendations written like in No. 2, Central Gem that is Owang, findings is written falsified signatures on payment list, doctored payment returns.
2. I would recommend that the following be removed from the list that is on the recommendation, to be charged as guided in recommendation No. 2 above. It was my suggestion that we remove that and replace it with the following word, that appropriate disciplinary actions be taken and criminal proceedings instituted where necessary, the status be reported to Finance Committee within 30 days upon approval of this report.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

(Question proposed)

(Question put and agreed to)

Hon. Otiato: Thank you, Mr. Temporary Speaker Sir. I think the other one for regulations was captured. It was not captured. Therefore, allow me also to move to recommendation No. 3 on page 58 where it states that the Committee recommends that all PMC payments so far lodged with the department of Finance for various wards be suspended until the CECM Governance comprehensively revises the Siaya County Project Management policy in order to comprehensively streamline the procedures on formation of the PMC and participatory process be factored here in.

The CECM Governance should submit to the Assembly the reviewed PMC policy within 30 days upon the adoption of this report.

It is my recommendation that we replace the following; The word Project Management Policy with the Project Management Regulation.

(Question proposed)

Hon. Temporary Speaker: Yes, Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Temporary Speaker, Sir. I want to oppose all that in principle because at the end of it all, it is about governance which is about laws and the laws we do have. We are talking about money, who had the power to appropriate it? It is this House! At the tail end of it all when we will have gotten the position to pin people and we are out to pin, but ours is not final.

We have the judiciary, but my fear is that we might not amount ourselves in the court of law to justify our position. The people we will be out to pin will find lose ends so on technicality it will all be a classic end of thieves found and the court sending them free. Because one, how did we release money during budgeting and we did not preempt the evolution of policies.

Two, are there evidence that our Sectoral Committees were pushing for those policies. We gave them a blank cheque. That is my only fear, and I want to be on record that whatever we are out to do should not be substantively tied to this Motion. For fear for myself, I am saying, as representative of Central Alego it shall be in vain and it is a matter of time Central Alego will be proved right. I oppose!

Hon. Oyuago: Thank you, Mr. Temporary Speaker, Sir. I am on appoint of Order on what the one Hon. Oriaro has just said! The report was Tabled yesterday and with the rules of the House are that.....

Hon. Temporary Speaker: Hon. Shirley, support or oppose Hon. Otiatos' Motion. Hon. Otiato, Hon. Shirley was standing to support the Motion. Actually, she was supporting what I was directing is that she should not direct Hon. Oriaro.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Judy, did you want to be on your feet because you have been requesting, but when I give you the Floor you don't respond.

Hon. Otiato: Thank you, Mr. Temporary Sir. Allow me with the few amendments that have been seconded to also make my contribution. One...

Hon. Temporary Speaker: Are you replying? Then hold your horses.

Hon. Ochola: Thank you, Mr. Temporary, Sir. I was a bit confused, but I have noticed that he is replying which I will give him the chance to, but I was just bringing you to speed that there is an advisory we are also giving on the chair about whether we can impeach officers who were there then. I am not sure if they are really part of his amendment and if it is not are you considering the advice you gave initially as part of the amendment.

I am specifically concerned with recommendation No. 1, where there is a recommendation of impeachment but going far back in FY 2015/2016 whose occupants might not be there according to the advice you are giving us but also to the fact that recommendation No. 5 is also....

Hon. Temporary Speaker: Hon. Ochola you are out of Order! Let Hon. Otiato reply and if you intend to Move a Motion to amend you will have your hour.

Hon. Otiato: Thank you, Mr. Temporary Sir. I first want to thank those who have contributed like Hon. Irene who has ably contributed to support these amendments. The amendments just as they have said that we are referring to regulation.

I am taking Cognizant to the observations made by Hon, Oriaro, on this part the reservations that was there. For instance, that we had gotten the guide lines. What we are complaining about is that we came and found the PMC money being deducted without a regulation or a law.

To date it is still being deducted, but if you ask on what law is it being done... so that means that even the Kshs. 105 million we are talking about was deducted illegally without any law binding to it. Therefore, putting this question and this particular amendment just as we have said that policy is just policy and it is never binding.

You cannot take someone to court with a policy but if we have a regulation then it will be binding to the decisions that we make. As we talk today, the one issue I know about the PMC is that someone somewhere knows that even if they take the money there is no regulations to bind them on how it is being spent.

Therefore, that is why we are saying that within 30 days, if at all they still need to deduct money and even the money they deduct from today or tomorrow is still illegal. Because we still do not have any law, any regulation that is binding into the deductions of these monies. Therefore, if we pass it with these amendments we are rightfully saying that in the next 30 days we can be having right questions as well as answers. I want us to understand that the money that we are crying that has been stolen has been deducted illegally because we do not have regulations or a law to it.

I ones asked if we even knew the content of the policy, but some of my friends said no, we just used a motion to start deducting the money! Which is actually very wrong. With this, we

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

will be able to know at what point do we audit, because again, what we are having and I want to summarize....

Hon. Temporary Speaker: What is it, Hon. Olasi?

Hon. Olasi: Thank you, Mr. Temporary Sir. I cannot say that I lost in between, but if the trend Members are using that, we did not have right policy or regulation to tie this people and I stand to be corrected, then at the end, we cannot blame them. What guidelines did they use to deduct the 5 percent? Did they have any rule or guideline to do so because they were doing it since 2014? If we do not have authority to send them home, then what authority did they use? ---

Hon. Temporary Speaker: Hon. Whip, what the Hon. Otiato is saying is that if somebody stands up and says look, in my opinion 5% of Kshs. 300m in the stadium is for PMC. Then you have no regulation to tie them to suggesting that 5% of Kshs. 300m is too much!

What Hon. Otiato is saying is we must have some regulations that are so clear that even give a capping so that somebody does not deduct 5% of Kshs. 500m and tells you that that is for paying allowances for PMC who are only 5 people and are being given Kshs. 1000 per day!

He is saying that we can't suggest and that is why Hon. Oriaro was opposing. You can't suggest that somebody slaughtered for us a donkey to give to our father-in-law, so let us not check which animal is being slaughtered next time, that is what they are saying! Yes, something called a policy was there but Hon. Otiato is saying that a policy cannot be used to hold you to account if I got him well. A policy is just a statement of how you want to guide, it is a guideline.

Hon. Olasi: *(in audible)*

Hon. Temporary Speaker: If you read the report before you, you have it, you are a Member of the Committee! There is a policy attached, signed by one George Okello! That policy that is attached there is what your colleagues are saying is not sufficient. Because it is that policy that has been used to abuse the process, now you are correcting it! Yes, Hon. Oriaro!

Hon. Oriaro: You pre-empted that one of the ingredients of the report we are handling and doing amendments on is coming from Mr. George Okello who is not a CO and we had made our pronouncement over such. So by its very nature, this thing is a dead end in itself, we are going nowhere.

Number two, if at all that is objected to heading us to go forth, we are on a recess from today, more than 30 days! We are giving them 30 days to evolve a regulation and by the very nature of processing regulations, it comes from the Waziri forwarded to a Committee of this House. Don't you realize that it will take so many days, so the deadlines we are giving in our amendments are naturally also in vain!

Hon. Ochieng: Thank you, Mr. Temporary Speaker, for having given me this chance. I am on a point or order, I wanted to tell our senior Whip that maybe he needs clarification between a policy and a regulation so that if at all the institution can organize for another induction so that we can read on the same page to avoid doubting on policy and regulation.

Hon. Olasi: *(Not audible)*

Hon. Ochieng: Mr. Temporary Speaker, I think you have given me this chance and I am requesting the Hon. Member to kindly sit down.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Temporary Speaker: Hon. Whip, this House shall debate and each person's opinion carries equal weight. And so we cannot enforce an opinion of any of us without taking into consideration the opinion of other Members. Even if the majority will be for the report, let the majority carry the day, let the minority have their say! We cannot say that we are the majority so the minority can keep quite! Yes, Hon. Willis!

Hon. Ochieng: Thank you, Mr. Temporary Speaker. As much as we are debating and agreeing with that, sometimes we must be factual. There is no way someone can stand and say that some Hon. Members in this House are jokers. And if at all we are jokers, those people who elected us believed in our jokes and it is the reason we are here representing them. And as a matter of fact, this is very serious---

(Interruptions)

Hon. Temporary Speaker: Order, order! Hon. Whip, I want to remind you that our Standing Orders say that when the Speaker is on his feet, the rest are supposed to sit down. Carry the responsibility this House has given you with humility. Guide your people because you are the Majority Whip. The Majority Whip must not be seen to be pushing a point without whipping people together.

(Applause)

I will want to appeal to your sense of responsibility that you sit back; listen and then you shall whip the Membership into supporting the report or rejecting it. You are the person whose word matters last and matters most and I would wish to remind you that that gentleman is under you. A father does not argue with his children persistently.

(Applause)

Hon. Olasi: It is true that I am the Whip but common sense dictates that I didn't come here to be the Whip; I came here to represent the interests of West Uyoma people. Even if I am de-whipped now as I speak so be it but a Member of a Committee that has been sitting with this report for the last 4 months!

Today, 30 minutes to this thing the same Membership, you want to say you cannot differentiate between a policy and a regulation and you want me to sit down and watch and remind me that I am the Whip, it cannot work!

(Hon. Olasi walked out in protest)

Hon. Ochieng: Thank you, for giving me this chance. I want to put it very clear that I rose on a point of order and my point of order was to give clarification to Hon. Whip who has

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

just walked out that there is a difference between a policy and a regulation. Going forward I would wish that this Hon. House gets a dictionary where by Hon. Members can refer to it if they don't understand something.

Our parents did not take us to school so that we can come and educate others here. Someone should not come and call other people jokers. I agree I am a Member of this Committee but as much as I am member, we must put things very right. I just wanted to be given guidance on recommendation number 5, we want to pass this report and as we pass it, we want a report that is implementable. We don't want to come here and start passing a report that will not be implemented.

On recommendations number 1 and 5, my concern here is, in the same statement, we are talking of having the County Secretary to submit to the Committee of General Oversight the comprehensive internal audit report.

Before receiving this report we have started initiating impeachment Motion, then to me there is no need of writing here to give them 14 days to submit this report. If at all we are waiting for the report, this report of Kshs. 32m might be clearing these people that these monies were given to respective Ward Administrators!

Hon. Odhiambo: Thank you, Mr. Temporary Speaker. I want to say that people are going round with information and people are not speaking straight. If this report needs some amendments then it's better we give it back to the Committee to go and do some amendments first before they bring it here.

Hon. Temporary Speaker: Hon. Edwin, the Hon. mover for the amendments was on his feet, while he is on his feet, I would wish him to address his mind to what Hon. Willis is saying that you are asking for an audit report in 30 days! And you are asking for impeachment in 14 days! What if the audit report clears these people? Proceed!

Hon. Otiato: Thank you, Mr. Temporary Speaker. I want us to be very clear on what we are discussing here. Before we go into these details, I had proposed for amendments in a particular section that is on the recommendations.

Going by the advice that we got, we then proposed that on these matters of cases which are not complete, like we are talking about areas where there are recommendations for surcharging and so on but we said that in those particular sections of the report where there is a proposal of surcharging, we delete those surcharging and we put a disciplinary action be taken.

Criminal prosecutions where necessary be instigated in that if at all there is money which was lost like Central Gem where we are saying there was falsified signatures, in that then we are dealing with the disciplinary action on that particular officer.

A disciplinary action would maybe a dismal or recovery or be surcharged. We allow that the appointing authority to this particular person do that particular job, take a disciplinary action. But we also allow that if at all there is forgery as claimed, an investigation should be done and when it is found that there was forgery let these persons be subjected to criminal proceedings.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

We are saying as a House that we amend those because it's just like ten areas which were cleared, there are areas that were not cleared. All these people who were not cleared have one recommendation that they be subjected to disciplinary and if at all a criminal offence has been approved against them they be charged criminally.

I am also saying, I know there is one point people are not getting clear here. When there was money, the monies that were kept for contractors to a particular account, we are saying with or without that regulation/law, the money was public money which was not meant for that particular project.

In a way we would call it as a saving from that allocation and if that money is there, what we are saying currently is that whoever stole that public money from the account that it was supposed to be should be liable. But with this report we are proposing that way forward, we need a regulation to be in place to help us in the way forward and that is the ground for those two areas.

I also take a case for Hon. Willis who has been talking about the first instant. We are not talking about an individual, and according to this report I didn't want us to assume, we are talking about an office, the CECM Finance. The CECM Finance we are talking about is that office not an individual, we are taking about the CECM Finance during that particular period.

If we pass this then we are saying we are thinking about the future and amending. So when we are saying the money was paid, we are asking, how were the Ward Administrators given money into their accounts? The person who should be giving us that answer is the CECM Governance. How did the CECM Finance remove the money? The CECM Finance should be able to answer.

You realized what happened here last time, when we were...

Hon. Temporary Speaker: Hon. Otiato, I would wish that this debate comes towards the end so that if necessary we put a question but I was just wondering if we are going to impeach the occupant of the office not the individual; what about if there is a reshuffle tomorrow and different persons go to those offices and we are impeaching on the basis of the office! Don't you see possibility of impeaching the wrong person? Just clarify.

Hon. Otiato: The clarification I am making to that is that with this report we are recognizing that there was an occupant of this particular office of this particular period. And therefore if we say that this person needs to be impeached, in a way we are saying, we are proving that the occupant of that office during that time committed an offence.

He needed to be removed from office and therefore when we move forward what we expect, the current office holder will come and say, I was not there then and therefore we will take the report that this particular person who was there committed an offence and he cannot be impeached and therefore the matter be referred to the relevant office.

I want to conclude by saying that how I wish that all of us we move forward and because the key thing is here, an audit report that we are referring to, we are saying, yes, we are only talking about Kshs. 32m---

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Temporary Speaker: Hon. Otiato, you are debating on regulations and rules and I think you have made the point and you have replied. May I put the question?

(Question put and agreed to)

Could we now hear Hon. Shirley!

Hon. Oyuago: Thank you, Mr. Temporary Speaker. I want to contribute on the report as amended by Hon. Otiato.

Hon. Temporary Speaker: Yes, Hon. Ochola!

Hon. Ochola: Thank you, Mr. Temporary Speaker. I am standing on a point of order. Some facts keep on escaping us and you have pointed it twice that recommendation number one is contradicting recommendation number 5 as put by my colleague. I was also waiting to see him pass that as an amendment, I don't know whether it has escaped him.

Hon. Oyuago: Thank you, Mr. Temporary Speaker. We need to learn the rules of the House. This thing has been debated on and Aye has taken the day, I don't know why the Hon. Members is still rising on a point of order.

Hon. Ochola: What I am saying, we have already voted on two amendments but we have one further contradictory clause which the Speaker pointed out. I am just reminding the House whether that is also being amended?

Hon. Temporary Speaker: Hon. Ochola, you are out of order. You cannot put an amendment in the mouth of Hon. Otiato! Hon. Shirley!

Hon. Oyuago: Thank you, Mr. Temporary Speaker. First I want to commend you for the wisdom that you have on reminding the mover of the Motion on matters regulation. What I want to say on the report, I wish Hon. Olasi was here, when he was contributing he mentioned something very key.

When you go to a church and hear people giving out testimonies and it's the same testimony that you have, you can also be persuaded with the same testimony to rise up and give your testimony. Hon. Olasi, gave out a revelation that is very key, I wish other people could also arise and give the same testimony.

One of the Administrators sent him some money via Mpesa and he returned the money, how many people received the money and they are quietly seated in the House, I wish they could come up and give the same testimony before the House. Maybe that is why this report is too controversial to us, bringing up a lot of issues. I suspect something on this report.

This is just PMC money in three Financial Years and I also want to remind the Committee on Finance that the Project Management money is not only on bricks. I wanted to remind the Committee on Finance that came up with this report that the PMC money is not about bricks, we have other projects like environmental, sports that has the PMC which are not captured in this report.

I would urge the Committee to go ahead, dip to other projects like environmental projects and sports projects which has allocation that is being controlled/managed by a PMC. I

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

will support the recommendations; I wish this report came earlier before the Health Committee report.

Some people should be in jail right now, if you look at these monies, they are directly involved with the CECM Governance and when you check on the Health Committee's report, we sent the CECM Health away because of lending money that was in a hospital and this money that has been eaten by the Ward Administrators under the watch of the CECM Governance, is directly involved. The CECM Governance should be home as we debate this report.

I also support recommendation number 1 with facts that should we dismiss a CECM that is already in another docket? As a House, we should! This is going to tame the Governor for swapping the CECMs. They have messed up departments and they are going to be moved to different departments.

We have the policy paper but the reason that there are these gaps is because we didn't have the regulations to demonstrate how these PMC monies should be paid. And that is why the Committee Members are telling the CECM who is in charge to bring in regulations to manage or to show how this money should be paid to PMCs.

I support the amendment that was brought by Hon. Otiato that the regulations should be brought to the House to govern on how the money should be distributed. I support the report fully.

Hon. Akuno: Thank you, Mr. Temporary Speaker. I support the amendments and I will take you back to the records. The day we were impeaching the CECM Health, I said one thing here that God will punish this House. With evidence on this report, I wonder why people are not in the House, they have moved out.

I support Hon. Olasi; I am one of the victims. I can recall when the Ward Administrator for West Asembo called my manager and told him the money was eaten from the top and it is complicated and nobody will go home.

Right now, if you check the records, you can see that some Ward Administrators have already been cleared without evidence. I wish the Finance Committee could make another follow up or we look for an investigator to clear some MCAs in this House. Some MCAs should also be investigated, I support.

Hon. Booker: Thank you, very much Mr. Temporary Speaker, for having given me this opportunity. First of all I rise to support the amendment because I appended my signature on it. Secondly, I want to give you a very small story.

When I was in the Army, I used to shoot at moving targets; I really would have like this House to learn to shoot at moving targets. It could be a ploy from the Executive or from the Governor that anybody who has committed a misdemeanor or who has committed a crime in one docket be moved to another docket so that he rubs the mistake that that CECM has done.

It is very sad that Kshs. 105m cannot be accounted for, even if today they bring you an audit report you will not find that Kshs. 105m. I can read the intent of some Members in this House, they are out to shoot down this report because of their personal interest.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

(Applause)

Let us not be cheap! The Hon. Olasi has given out a very dreadful statement that if you are emotional like Hon. Judy, you could have cried. I support the amendment and please Hon. Members, pass this report so that we make Siaya clean. Thank you.

Hon. Temporary Speaker: Hon. Members, the Chair intends to give 3 more contributors and then ask the mover to reply. We still have one more Business to attend to.

Hon. Oyugi: Thank you, Mr. Temporary Speaker. I stand to support this report and first I would like to appreciate the Committee for coming up with this comprehensive report even under the circumstances.

Secondly, I would like to say that this is a clear indication from the report, the kind of mismanagement of funds that is happening in the County. Clearly it is negligence from the CECM, CO up to the Ward Admin. I am really amazed at the amounts that are coming up in this report because for example in my Ward when the issue of the PMC payment came up, my Ward Admin admitted that he had been given Kshs. 150,000 to pay the PMCs and after he paid Kshs. 10,000 he said he went back to the car and the money disappeared.

So we told him if it got lost, report it to the police! He took long, two to three days; he went to the police and reported that he had lost Kshs. 350,000. That is why I am totally amazed when I see he was actually given over Kshs. 800,000.

What kind of message are we sending to our people that we can engage them in an activity and then at the end of the day they are not being paid what is due to them. With those few remarks, I totally support the report, thank you.

Hon. Omoro: Thank you, Mr. Temporary Speaker. I stand to support the report and also the amendments that have been done. I think we should dig this menace from the beneath.

Hon. Temporary Speaker: Hold on, Hon. Members. I want to direct that further contributions be limited to at most two minutes.

Hon. Omoro: I was clarifying that the bigger menace in this must be unearthed properly because already we know Kshs. 105m has been lost. We should go back and know the whereabouts of the Kshs. 105m and then later on unravel how the monies were wired into various accounts of the Ward Administrators.

We should also know if the list given was genuine or not because the report talks about falsified payments and lack of evidence whether people were paid or not. What I would say is that the previous Ward Administrator in my place has been cleared and yet there were a lot of controversies over the same.

I recommend that we support the report so that we get a clearer picture of what transpired. Whether there was a policy or a regulation but what I know the total sum of PMC money should be more than Kshs. 137m, so let us be given a clear glimpse of how much was collected and how much was disbursed to the various accounts of the Ward Administrators and the fate of the remaining Kshs. 105m. I support, thank you.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Odhiambo: Thank you, Mr. Temporary Speaker. I have really waited for long. I was really waiting to debate on this report. This is public money which has been spent in a wrong way. What is amusing me is that the House today has less Members, I don't know the reason why.

I really wonder why people are passing this document and this is public document. After discussion here the people of this County will follow this document, I will not support a document which will lead me to EACC. I want to say that apart from the Ward projects or the 5% for the Ward projects, the Kshs. 32m, I think there is a lot to be verified in the Executive department where the Kshs. 105m went to.

It is indicated very clearly if all of you could check page 10. It is indicated here that the 5% PMC cost were deducted from the project payment, for the County Development Account but not remitted to the County deposit Account thus creating a surplus to the County Development account.

It means that this money is still there and if it's not there then there is somebody who has it because when we do Budget we do it for a specific vote head or project. So if this money is there as a surplus, it means it is still there.

We really need this money, and if it is not there, then let those who are responsible take charge, and whatever punishment they are going to get is also stated there. The reason I want to reject this Report, if you can check West Uyoma, these Ward Administrators have been sent home because maybe they misappropriated these funds or they used it for their own benefit.

Hon. Booker: Mr. Speaker, allow me to correct the Hon. Member that there is no Ward Admin that has been sent home, unless you want to send them home, but we are still debating on what to do.

Hon. Odhiambo: Thank You, Hon. Member for correcting me, but I want to confirm that whether they have not been sent home, what is stated in the recommendation might take them home because they have not been cleared. Those that have been taken home include North Ugenya. Check page 44. In North Ugenya the Ward Administrator even overpaid, where did he get the extra money to have a balance if he is the one who gave the list to the PMC to go and pay the money?

Also check the Ukwala Ward Admin has also been cleared, where did he get the extra money, there are some who have been cleared with less money. The Committee did not stipulate that these moneys were taken to which account? If somebody was given Kshs 1 million and he paid Kshs 800,000, the other Kshs 200,000 where is it?

Does the Ward Admin has it or he has taken it back to the County Coffers? That is why I really disagree with you because I know immediately we leave this House, the people of Siaya will access this document and they will be having a lot of queries.

At the same time, I am really wondering that since 2015 up to 2018, the 5% money, nobody has died and the report has not indicated. Even those who have been cleared, none has died and the money given to the parents who are alive. I think these issues should be cleared in this report that is when it will add value to this House. I want to reject this Report.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Ochola: Thank you, Mr. Speaker, Sir. I am on my feet to support this Motion.

Hon. Opanga: Point of Order, Mr. Speaker. Having also gone through this as my able Deputy was submitting, the in excess and the explanation which the Committee has put clearly the difference and what brought about the difference, that is not sufficient but doesn't warrant what the Hon. Member is saying, but I would kindly ask him to confirm as per the report here, to confirm if an explanation on the same has been given. Thank you.

The Temporary Speaker (Hon. Madialo): Hon. Nick Ochola, take exactly 2 minutes.

Hon. Ochola: Thank you, Mr. Speaker, Sir, for the opportunity. I will actually take less than two minutes. As a Member of the Finance Committee, I understand the pain and the emotions, with which our Whip was having over this Report; we have gone through a lot to unearth what is happening here.

If you go through your Ward and see how your local people have missed out on what they diligently worked for and then it went to the individual pockets, we need to support this Report in its entirety, and mine would only be to first congratulate the House and the mover. You know we have really taken time to come up with this, but with the aim of wanting to come up with a water tight report, and thanks for coming up with words such as recoveries.

This will even help nail my former Ward Admin, as we speak he is no longer in employment so surcharge was going to be some difficult task because he is not now in employment, but I am now happy with such amendments because we can recover the monies whether he is in employment or not, because these are monies that we should not let go.

I am also looking at it like; this is an example of a good report when we want to bring retribution for a wrong which has been done. You realize that the report is asking for measures to be instituted against the CECM who was in charge of the docket and was disbursing, and not leaving it at that, we are also going after the CECM Finance.

Well it gives me a big difference between the retribution that we are bringing here unlike the previous impeachment Motion which we gave at some level, but at least this one here takes care of my dream and interests that it takes two to tango.

So I would really support this Report, that we pass it, as we have done the amendments and it has also been made clear to me, something that was not clear, that recommendation 1 and 5 we were talking one, of the same thing, but it is clear that as long as we have implemented recommendation 1, 5 will not stand because you cannot impeach twice. Once you have impeached he is going home. So the other one would neither be here nor there. I support.

Hon. Audi: Mr. Speaker, I would like to inform the House that one of the MCAs placed a Statement request that partly informed this report. Secondly my main challenge is; right away, there are projects which are being implemented.

The Temporary Speaker (Hon. Madialo): Hon. Audi, don't go to stories. Focus on the Motion or I will disconnect.

Hon. Audi: The same Ward admins ate these public funds and most of them even fear stepping in their wards right now. We have to move with speed. Another challenge is the

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

implementation of the recommendations. I don't know who should be following up the implementation of these recommendations.

We should now be following up on the implementations of the recommendations of all these reports. The Implementation Committee should now follow up and work with speed. Thank you and I support.

Hon. Ochieng: Thank you, Mr. Speaker. I want to say I am a Member of the said Committee and I am one of the Members who went out on a fact finding mission. What we met in the respective Wards is really terrible. Some of the PMCs in the Wards that were in those projects have colluded with the Ward Admins and they are saying that they were paid and what is on the record is what they received.

So on that note, you can't start arguing with him asking 'how were you paid?' and he is the one whose name is appearing on the records that he was paid. I supported the amendment of the regulation to be put in place.

On Hon. Edwin's question of whether some people did not die, I want to put it very clearly that in Sidindi Ward, there was a woman who came to collect the money because her husband had died. So we came across such cases, like in this case, the money was given to the wife.

I want to defuse the idea of how some MCAs ate the money and that they now fear to debate on this. I think like on the Ukwala Ward, I am the one who went there and we met at the Social hall, which was full to the brim, and those PMCs that were called in that hall were like 'I am the one, the ID number is mine. So we were verifying everything. So in such a question, you cannot say a Ward Administrator could have stolen the money.

I want to put it very clearly that I represent Yimbo West Ward that is in question here for Admin; I don't want to call the name, who is to be surcharged Kshs 1.4 million. That shows you that some of us here, our hands are as clean as cotton. We have not soiled our hands into this. Were it that we the MCAs messed up with part of this money (because some of us were even in this Committee) we could have cleared ourselves.

So I just want to urge this Honorable House to adopt this report as it is. My concern has just been drawn just as another Honorable Member said, our reports should be flowing, and if our report is flowing, that is why I rose on a Point of Order on recommendation number 1, which may be contradicting recommendation number 5, because number one has also initiated the impeachment process.

The Temporary Speaker (Hon. Madialo): Hon Willis, you are repeating what has been said

Hon. Ochieng: I am not repeating what has been said but I was just adding my signature. Otherwise I support.

The Temporary Speaker (Hon. Madialo): Hon. Willis we don't have the time to take signatures. You may resume your seat.

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Otiato: Thank you Mr. Speaker. I also want to take just one minute to make clarification. I also want to support this Committee for a job well done, although we are having some issues here and there which we really need to get tight on.

Mr. Speaker you also double up as our Chair for Budget and you can also tell us that from the day you know we have been having a minimum of Kshs.2 billion for development. If you calculate 5% of Kshs.2 billion is around Kshs.100 million. For this period, we are expecting about Kshs.500 million to have been deducted towards this thing and we are now talking about Kshs 1.3 million.

So we have a lot of money which is still outside there and we want to know where the money is. You realize that in our Budget, we have concentrated more on the Wards. We don't have Executive PMCs. There is no report here on the Executive PMCs. So I don't know at what point here will we be discussing it?

Let's assume that this one is the PMC for the Executive, who has been paying them? Are they real people, or they are the employees of the County? Going by this recommendation, I don't know what we are going to do on that, but then we have other mechanisms of dealing with it. We really need to have these matters captured.

In recommendation number one, it is giving us something about Kshs 105 million out of Kshs 137 million the other remaining amount has not been accounted for. This is what we are asking, that the CECM Governance and the CECM Finance, where is the money? So with them we are giving them the 30 days to tell us where the money is, if there is no money there then we will see how to deal with them. That is the impeachment we are talking about.

Then I also just wanted to make a clarification on the recommendation number 5 which is totally distinct. It is calling upon the County Secretary to give us an audit report on the Kshs 32 million which had already been spent. This is very specific which we are asking them about the Kshs 32 million which was spent. If you read, then the Sectorial Committee other than this, have got Kshs 105 million up there or whatever it is or whether it should be explained.

We are saying that in relation to the Kshs 32 million, which were paid to the private accounts, the CECM Governance must be impeached. We are not waiting for an audit Report on this. I think by the spirit of this, that you allowed money to be put on private accounts using which rules? And how did you do it?

Therefore, as we are, these guys are going to give us within 32 days on who are the auditors of this Kshs 32 million, and then the Finance Committee it is my humble request that as we come here on the 1st week of opening we have this Motion, and with this Motion then a lot will be unearthed.

The Minister is now having a whole month to redeem himself. Ensure that every record is kept. I support.

The Temporary Speaker (Hon. Madialo): I would now call upon the mover to reply. Could you be very brief?

Hon. Siguru: Thank you, Mr. Speaker. The Hon. Members who have debated on the report and probably given input on the report, much as the report may not have met the

Thursday, 8th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

expectations, and probably some of the things that necessitated the amendments, we still really appreciate that at least we have made a step to the right direction.

Observations have been made, we may not have done as much as may have been done, but as a Committee we said this was a starting point and we really request that you support the work that has been done so far.

In the next report that we are going to do, if we get the reports that we are asking for, we will put in more measures that are going to make the report more tight, and by this submission, I only ask my fellow Hon. Members to support this Report as this will make us move forward and probably unearth much more in the same PMC fund. Thank you very much, Mr. Speaker.

(Question Put and agreed to.)

The Temporary Speaker (Hon. Madialo): Next Order! Hon. Irene Shirley?

Hon. Oyuago: Thank you, Mr. Speaker. I would request the House that I am not going to move the Motion; I want to relate what I want to submit with the Report that has just been discussed here. You have seen a lot of controversies in the report. In any case it is wrong, I will withdraw.

There were limited consultations and that is why there were a lot of issues, and we decided as a Committee on Appointments that we bring a Report that doesn't have any gap, a Report that can be implemented, and the Executive to submit some documents which they are yet to submit.

So I think we are going to table a comprehensive report on a date that will be communicated. Thank you.

The Temporary Speaker (Hon. Madialo): Mheshimiwa Shirley, you are directed by the Chair that the Committee on Appointments be ready with that Report by the week of the reopening of the Assembly, re-opening connotes that there will be subsequent information. May we be upstanding for adjournment please?

Hon. Members, Pursuant to the provisions of Standing Order Number 25 (3) relating to the Calendar of the Assembly and the resolution of this House on 13th February, 2019, the Speaker notifies that upon the rise of the House today at the appointed time, regular Sittings will resume the Tuesday, 10th of September, 2019 at 2.30 p.m.

The House rose at 6.30 p.m.