

Thursday, 5<sup>th</sup> December, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

# REPUBLIC OF KENYA

## SIAYA COUNTY ASSEMBLY

### THE HANSARD

**Second County Assembly - Third Session**

**Thursday, 5<sup>th</sup> December, 2019**

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

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

### PRAYERS

### CUMMIUNICATION FROM THE CHAIR

**Hon. Deputy Speaker:** Hon. Members, we will skip the communication as we wait for one because it is still being prepared at the Speaker's office.

### STATEMENTS

**Hon. E. Odawa:** Thank you, Hon. Deputy Speaker, Sir. I stand to raise a Statement on behalf of Hon. Andericus Oduor;

Pursuant to SO 41(2c), I rise to seek a Statement from the CECM Education, Youth Affairs, Gender and Social Services on the fate of stalled projects in West Ugenya from the FY 2015/2016 as follows:

1. Construction of Nyaminia Youth polytechnic.
2. Equipping of Lung'a ECDE School.

Pursuant to SO 41(2c), I rise to seek a Statement from the CECM in charge of Health Services on the fate of stalled projects in West Ugenya from the FY 2015/2016 as follows;

1. Construction of doctors houses at Sifuyo health center.
2. Fencing at Bar Ogwenyo dispensary.
3. Fencing of Mudondo dispensary.

Pursuant to SO 41(2c), I rise to seek a Statement from the CECM in charge of Governance and Administration on the fate of stalled projects in West Ugenya from the FY 2015/2016 as follows;

1. Construction of administration police houses in Sifuyo Ratado.

Lastly, Pursuant to SO 41(2c), I rise to seek a Statement from the County Secretary on the issue of rooting out ghost workers in the payroll through the payment of cheque system, in the

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month of October 2019 through a directive given by His Excellency the Governor of Siaya Amoth Coronel Rasanga. In the Statement the County Secretary should;

1. Explain the legality of the cheque system in the era of IFMIS system.
2. Explain the result of the exercise including the number of ghost workers identified if any and the action taken to the perpetrators of the act of paying ghost workers.
3. Explain if the ghost workers were identified, how much is in the savings per month and the fate of the savings from now and in the future.

Thank you.

**Hon. Deputy Speaker:** I direct that the request be submitted to all the relevant Committees as we wait for responses. Sorry, Hon. Wandera, still under statements we have statement response from Education department and I think that is why you are on your feet, proceed.

**Hon. Wandera:** This is Statement request by Hon. Abigael Awino of Central Gem Ward. Pursuant to SO 41(2c), I rise to seek a Statement from the ...

**Hon. Deputy Speaker:** Yes, Hon. Omwende. What is your point of Order?

**Hon. Omwende:** Thank you, Hon. Deputy Speaker, Sir. I am a member of the said Committee and how I wish you could give the direction since the author of the statement is not present in this House, is it in order for the Member to continue giving us a statement when the author is not present?

**Hon. Deputy Speaker:** Yes, Hon. Oriaro, you wanted to say something.

**Hon. Oriaro:** Asante sana bwana Spika. Jambo la pili linalo dhihirika hapa ni kwamba mweshimiwa ambaye aliyeleta swala hapa alijielezea katika Kiswahili ya Ugunja. Sasa naona haitokuwa kwa manufaa yake tutumie lugha nyingine...

**Hon. E. Odawa:** I think both the Hon. Members have asked a very pertinent question and I think it is wrong for the Hon. Member to continue before you give direction.

**Hon. Deputy Speaker:** Hon. Member, I think Hon. Wandera wanted to say something but not to continue. So let us give him time.

**Hon. Wandera:** I was with the Member yesterday and she was really interested in the statement being read because it is about 2 months since it was brought to the House. It has been overdue and therefore I do not think we can suspend it again.

**Hon. Deputy Speaker:** Thank you, Hon. Wandera, I think you have heard concerns from the Hon. Members that the author of the request is not around, so whether it is long overdue it is a concern from certain Ward in a certain sub county. I would therefore request you to proceed to the next one as we wait for the author of the statement to come.

**Hon. Wandera:** This is Statement request by Hon. Morris Aringo of West Sakwa Ward. Pursuant to SO 41(2c), I rise to seek a Statement from the CECM...

**Hon. E. Odawa:** I think if the Hon. Morris Aringo is not here, he cannot answer the same.

**Hon. Deputy Speaker:** Hon. Erick Odawa, Hon. Aringo is in the House.

**Hon. E. Odawa:** Sorry, Mr. Deputy Speaker, sir. Hon. Morris Aringo is always very silent so I did not notice his entrance. Welcome, Hon. Aringo.

**Hon. Deputy Speaker:** Hon. Wandera, proceed.

**Hon. Wandera:** I rise to seek a Statement from the CECM Education, Youth Affairs, Gender and Social services on the construction of ECDE projects in Sianapanaga and Utonga in West Sakwa.

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In the statement, he wishes the CECM to;

1. Give comprehensive details on the two projects and all the compelling reasons thereof.
2. Explain the plans the County Government has to complete the projects and within what time line.

In the response the CECM Education, Youth Affairs, Gender and Social services responded as follows;

Sinapanag ECDE is at roofing and was stalled; this was awarded to Winam Construction. Utonga ECDE was at roofing but also stalled. She responded by saying that Sinapanga and Utonga ECDEs have budget constraints of Kshs. 1,970,336 hence, the contractor cannot go back to the site until additional funds are allocated.

We therefore, humbly request the area MCA to allocate more funds to enable the completion of the projects. Both the ECDEs had a Budget allocation of Kshs. 6.9 million and payment so far is to a total of Kshs. 2.4 million that would have left a balance of Kshs. 2.5 million to be paid.

After the whole amount was not rolled over, so the amount that was rolled over was Kshs. 580,752 leaving amount required at Kshs. 1,977,336. Therefore, if the area MCA could do further allocations in the next Budgets then it would enable the two projects to be totally completed. That is what I did at my place when the contract sum was not adding up then when we came to 2019/2020 we allocated more for the project to continue.

**Hon. Deputy Speaker:** We also had another response but it was a statement request from Hon. Otiato who is also not in the House and will also apply to number 2. Hon. Aringo do you have a comment on that?

**Hon. Aringo:** The Hon. Member says that he knew that the project had budget constraints and that is exactly what I wanted to know. When I came in Hon. Odawa didn't see me come in and that is only for one reason, he only knows me by my baptismal name Chief Abudi. So when it is written here that Morris Aringo the Hon. Member is unaware. However, I want to say that I am here.

I have gotten what I wanted to know. This is a project of 2015/2016 and in all records; there is no evidence that there was a rollover of Kshs. 580,000. Otherwise, I want to say that am satisfied with the response and I am going to do what is needed. Thank you.

**Hon. Deputy Speaker:** Thank you Hon. Aringo. I can see that we have visitors at the gallery and we want them to feel most welcome even as we proceed. There is response that should come from chair Committee on Finance, Trade and Cooperative to give us a response. The response was a statement request from Hon. Audi. Vice chair can read the response if the chair is not around.

**Hon. Siguru:** Thank you, Mr. Deputy Speaker Sir. The chair ought to be in the House but seemingly he might have stepped out in which I will come in and probably do a statement response from the Executive based on the statement raised by Hon. Audi, MCA South Gem.

**Hon. Deputy Speaker:** Am not aware if the Members have been furnished with the copies of the response. Hon. Audi do you have the copies of the same?

**Hon. Audi:** I got the response yesterday.

**Hon. Siguru:** If Members have the copies, then I will proceed by the virtue that the statement seeker is in the House and therefore, I will be able to respond based on the response we got from the Executive. The explanation that the Member wanted from the Executive was;

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1. Why was the contractor fully paid for the entire project or for work not done.
2. Explain the plans the County Government has in ensuring the project is completed by the contractor as specified in the BQ.
3. Explain the plans the department has to avoid such occurrences and possible loss of funds in projects that are paid for and not done.

The response that we got from the Executive on statement request was;

1. The improvement of drainage and gravelling of Akala market in the FY 2018/2019 project is yet to be awarded and has an intact allocation of Kshs. 1.5 million as a rollover in the FY 2019/2020. Framework Agenesis did the drainage at Akala market, which was in the FY 2016/2017 and awarded on 3<sup>rd</sup> October, 2016 at a cost of Kshs. 1.944 million. The works were completed and the payment voucher of Kshs. 1.5 million raised and approved at the budget office on 4<sup>th</sup> March 2019. Thereafter, the payment was fully made in the month of June 2019.
2. They are to explain the plans County Government has in ensuring that the project is completed by the contractors as per the specification of the BQ.
  - a. That the department will ensure that the contractors that are awarded contracts are evaluated and meet all the criteria set.
  - b. The contractors will also be expected to submit a work plan to the department and remain under close supervision of the respective PMCs.
  - c. That the department has tasked sub-committee Enterprise Development officers to help in streamlining improvement, implementation and department projects and report to the office.
  - d. That the department shall conduct regular site visits for effective monitoring and evaluation of work progress and submit reports to the Assembly.
3. That the department will closely with the Director Supply chain management to ensure timely completion of projects and ensure quality and value for money remains key pillar of service delivery.

This response the Committee shared with the statement seeker, we had discussion with Hon. Audi and as at the time we are reporting to this House the Member got convinced that at least the position given by the Executive was the true position because there were some misunderstanding based on information that he never had. Thank you

**Hon. Deputy Speaker:** Thank you, Hon. Siguru. Hon. Audi, are you convinced or you have something to add?

**Hon. Audi:** Yes Mr. Deputy Speaker Sir. I am contented, what actually remains is a statement that I placed some two weeks ago and I feel that it's time has elapsed. It was a statement to the department of Health on status of Lidha dispensary. There is also another one on Water, which we have agreed that we will go to the site, thank you.

**Hon. Deputy Speaker:** I believe that we have Members here; if the chair of Health is not present in the House then any Member of the Committee can respond. Hon. Adala!

**Hon. Adala:** Thank you. I seek indulgenceso that he could repeat his question.

**Hon. Deputy Speaker:** Hon. Audi, could you please come up again.

**Hon. Audi:** Hon. Adala, I guess while in the Assembly you should be attentive unless otherwise. We can even use sign language if you do not follow. Mine was just a concern on

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statement that I had placed 2 weeks ago on status of Lidha dispensary of which I was promised that the response will be here as at now.

**Hon. Deputy Speaker:** Hon. Adala are you on the same page now?

**Hon. Adala:** Yes. In deed as a Member of Assembly, I am always very attentive and when one seeks for a repeat, it is just for reemphasis for the sake of all of us. In regards to the question that he has just asked I want to state here that we have already written to the Executive and we expected a response by this week, though it is unfortunate that we will be moving to recess without that response being laid, so allow me to make a request that when we resume after recess, that will be the first thing that we will be responding to. Thank you.

**Hon. Deputy Speaker:** Thank you. That is from Member Committee of Health.

**Hon. Adala:** Point of information, Mr. Speaker. I am not just a Member Committee of Health. I am a Vice Chair. Thank you.

**Hon. Deputy Speaker:** Thank you, Hon Adala, the Vice Chair of Health Committee. Can we get a progress report on water, in regards to Hon. Audi's Statement request? Any Member from Water Committee?

**Hon. Booker:** Mr. Speaker, we will deal with the problem expeditiously next week when we visit the site, but unfortunately we will be on recess so after recess when we visit the site we shall solve the problem.

**Hon. Deputy Speaker:** Hon. Audi I think you are satisfied. Next Order.

## **MOTION**

### **THE ANNUAL DEVELOPMENT PLAN 2020/2021**

**Hon. Deputy Speaker:** Vice Chair Budget?

**Hon. Ocholla:** Thank you, Mr. Speaker, Sir. Allow me to move the Motion on the ADP 2020/2021, the Report of the Committee on Budget, Appropriation, Planning and Vision 2030. This report is based on the ADP which was submitted to the Assembly on 30th of August and it was submitted to the Budget Committee, which in turn is on record to have done 15 sittings. We met the Members of the County Treasury; we also did Public hearings from 23<sup>rd</sup> to the 25<sup>th</sup> of October, in the six sub counties.

This ADP which is anchored in the section 126 of the PFM Act, as well as our Standing Orders has a plan that this Committee considers as presented to us by the County Executive, it's important to note that this is the 1 year plan that they have for the year 2020/2021 anchored on the current CIDP that we have for the years 2018/2022. It is also important to note that this ADP will inform the CFSP for the subsequent Financial Year that we will come into.

That was the brief background. As Members are aware, they have been furnished with copies; this report is in 5 chapters. Chapter one is the Background, that is the common information, Chapter 2, an important aspect for this House, a review in terms of the performance, implementation, of projects in the last Financial Year that is last year, that is 2018/2019.

In the 3<sup>rd</sup> Chapter we will present the development projects that have been prioritized for 2020/2021, and we have also endeavored to give a summary of the proposed programs in Chapter 4, then Chapter 5 discusses the monetary evaluation framework. So based on that

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summary, it would be easier for the Members to flip through the Chapters and look at our presentation.

Allow me to just mention in passing, the elements of Chapter 2, which reviews the past performance because that is a very important aspect for this House to understand.

The County Assembly during the Financial Year 2018/2019 achieved two of their major objectives that they endeavored. That was the purchase and installation of the Hansard Equipment, purchase of the double cabin vehicles. Despite that, there was a report that we received from them, that is, they were not able to complete the phase one of the Assembly project, and that of the Speaker's residence as well as getting car loan and mortgages.

The Roads sector reported that during the year under review, it managed to open, grade, and murram 1,147km of roads against a target of 450 km; tarmacked 1km against a target of 10km; constructed 1 out of 2 bridges; and renovated and maintained 1 County Public works office against a target of 3 offices.

The Water Sector had some achievements, among them improvement of 16 dams and protection of 20 springs.

The Finance Sector constructed one ablution block, constructed one archive, completed wall fencing, cabro works and gate, prepared one M&E handbook system.

The Health Sector are said to have constructed a Laboratory at Uyawi and Rwambwa, construction of wards at Abidha and Siala Kaduol Hospitals, completion of stalled projects at Nyamseda, Nyalweny, Lwero, Wadenya, Inungo, Bar Owengo, Wagoro, and Ragengni Health facilities among others.

In livestock department, they reported to have purchased and distributed 40 dairy cows, trained 4,218 farmers among other achievements.

The Highlights for the Lands department is that they reported to have recruited three officers, that is the; Director Housing and Urban Development and Senior Housing Officer and Legal Officer. They also trained 3 officers at the Kenya School of Government, among others, but most importantly is that they purchased 16.2 acres of land for investment and other public utility purposes.

In Governance, they reported to us that they undertook some 50 public participation for disaster responses.

Tourism reported to have developed 1 tourism site; 4 branding activities as well as distribution of information, and also gave information about the location of tourism sites in the Region.

Education generally had improvement and construction of ECDE, as well as Construction and equipping of Youth Polytechnics.

Enterprise reported among others that it developed market infrastructures for 13 markets and also formulated 1 co-operative policy.

The next Chapter into our report is pages 10, 11, 12, through to page 13, and 14, giving projects and program priorities that each department planned to do, because ADP is simply what a department plans to do. I will jump the pages that I have mentioned, so that I take colleagues straight to page 15, a summary of the wish list and the subsequent amount allocated, so that the bottom line of this wish list comes to Kshs 10,224,490,430. But if you go back to page 15, each sector has highlighted the programs and the subsequent cost that they have proposed to

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undertake. Having gone through that, we had submissions from various stakeholders in analyzing our ADP.

The committee organized and conducted public hearing, from Wednesday the 23<sup>rd</sup> to Friday the 25<sup>th</sup> of October. We held the public meetings at Aram Market, Rarieda Sub County, A public meeting at Bondo County Hall at Bondo Sub County, another one at Ukwala Hall at Ugenya Sub County, one at Ugunja County Hall at Ugunja Sub County, another at Sawagongo ACK Hall in Gem Sub County and Siaya ACK Hall at Alego Sub County.

In summary we are saying that we covered all the Sub counties for the purpose of Public hearings, by getting the people's inputs as required by the law. Besides that, we also had some meetings with the County Executives in various days between Thursday, 31<sup>st</sup> to Monday 1<sup>st</sup> November, 2019.

We met all the CECMs and other Country Executive Members, but further I would like the House to note that we had a separate meeting later with the CECM Finance, so that we include his opinion on our recommendation and his final input on the draft.

Allow me now to read the observations and the findings that the Committee had.

**On Legal Framework,**

The proposed Budget that this sector provided in the ADP was not in the MTEF format. This is contrary to the provisions of Section 126 (1) of the PFM Act, 2012.

We also noted that there was no demonstration that the CECM for Finance had published and publicized the Plan as required by Section 126 (4) which states that within 7 days of submitting the Plan to the County Assembly, the CEC Member responsible for Planning shall publish and publicize the Plan.

**On Background Information,**

We noted that the ADP failed to capture background information on the few key areas including, nutrition, sanitation and public health and areas in the infrastructure development.

**On the Implementation of the previous ADP,**

The Departments cited various relevant achievements realized earlier during review, but it lacked important details like project locations. This made it impossible to establish how the completed projects were distributed across the County.

**County Strategic Priorities 2019/2020**

We also noted that the County Assembly had included in the annual plans activities that are mandates to be undertaken by the County Executive, i.e. World Aids Day, Organizing the Civic Education Programme, Operationalization of the Public Participation and Petitions Act etc.

Having observed that, the Committee came up with the following Recommendations:

**Committee General Recommendations.**

1. In planning for the annual development, the County Government is obliged to ensure equity across the County. This should be clear in the forthcoming CFSP for FY 2020/2021 Budget and County Expenditure Framework. So that we allowed the minor omissions in our observations but proposed that that must not find their way in the CFSP and the Final Expenditure Framework.
2. We also noted that each department should at least identify one flagship project which should then be funded to completion. This

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will ensure that there is achievement of value for money for such projects and create major impact on the people.

3. Also that the allocations for the completion of the Assembly Complex and completion of the Speakers residence be approved subject to retention at the forthcoming County Fiscal Strategy Paper 2020.
4. Also that the Agriculture department, before beginning to establish the fish processing plant should undertake a comprehensive feasibility study so as to ascertain the viability of the project.
5. We recommend that all land purchasing and banking activities by any department should be domiciled in the Lands department so as to ensure coordination of such procurement and banking.
6. The Health Department should engage the County Assembly's Health Committee on the viability and the implementation of the Health Management Integrated System and the Universal Health Care. This should lead to the Buying in of the County Assembly Membership before the conclusion of the FY 2010/2021 budgeting process.
7. The details of the partnership between the County Government of Siaya and any other organization –including the KEMRI which intends to establish a biotech center and a pesticide manufacturing firm, be shared with the County Assembly for understanding and support by both arms of the Government. This should be done before any resource is allocated towards the said projects.
8. That the department of the County Health services involves the Members of the county Assembly in the identification of the 5 health centers into model health centers. If you look at the A DP, you will find that they are planning to remodel 5 health centers which are gobbling close to Kshs 20 million, but now we want to be involved in the identification of these 5 Health centers.
9. We expect that the sports facilities expected to be upgraded by the Tourism sector should be enhanced to 12, and equally be distributed among all the Sub Counties.
10. We equally recommended that no money should be allocated towards the Siaya Stadium before the previous allocations are exhausted. This was informed by the fact that there are some allocations in the ADP which was to take care of any eventualities. It was not clearly explained to us but we said no money should be allocated until what is there is exhausted.
11. We recommend that the enterprise department should first complete the three modern markets in Yala, Bondo and Ramba before starting any other so that the residents understand the value of the modern market.
12. We also recommended that while costing the proposed tarmacking of Rabango-Kodianga road, the Road Department should consider including the possible compensation cost for those who maybe dislocated from along the roads.



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13. We also recommend that the County Government through the Roads Department should consider tarmacking roads that connect to major facilities of the County, e.g. hospitals, schools and markets.

14. We further recommend that the County Government should avoid doing small and medium projects in phases if resources available can enable such projects to be done in one phase.

Having considered the proposal as made by the County Government incorporating the views of various accounting officers, the opinion of the CECM Finance and the views of the public following the public participation exercise held, this committee recommends that development projects as contained in the attached annex 1 and the annex is what follows there, be approve ---that will inform the preparation of the Siaya County Fiscal Strategy Paper 2020 and the County expenditure frame work for 2020/2021.

This Committee therefore requests this Assembly to adopt this report and further resolve that the proposed recommendation as contained in this report on the Siaya County Annual Development Plan 2020/2021 be adopted. Allow me to ask Hon. Mboha to second.

**Hon. Mboha:** Thank you, Mr. Deputy Speaker, I rise to second.

*(Question proposed)*

**Hon. Oriaro:** Thank you, Mr. Deputy Speaker. I want to thank the Committee for having considered the next Annual Development Plan that shall inform the budget that shall take over from the current one. In as much as this is a routine, the law requires that it be the same and an environment where we are pure representatives, reports should be authoritative in the sense that it meets the threshold of even Sectoral consideration.

For instance, when we consider recommendation number 8, the committee while considering this, ought to have questioned itself on the origins of such like thoughts. I am a Member of the Health Committee and our position and positions held by the Members of the Executive we have been interacting in the Health Sector is that the sector is below average.

We are considering upgrading health facilities, this goes hand in hand in enhancing financial allocation budget. As I speak, almost all health dispensaries, some don't even have thermometers; let's forget about issues of drugs like the malaria ones are provided by the KEMSA.

If a facility like Kanyaboli, the Committee of Health did a visitation there and we are compiling the report, it lacks basics. The department has even failed to find a way of commissioning completed facilities. Some of these areas, the Committee on Budget and Appropriations ought to have communed with by the perspective raised by Sectoral committees.

Lastly, on the issue of the Siaya Stadium, I think my memories lives with me and I can recall the journey we have been going through. The Executive is wise and their wisdom bent on malpractices is like is not properly captured here.

We had agreed in the current budget that the Executive communicates with the House on what it requires to have a complete stadium. Going by the report here, they still find space to still allocate for the same stadium; it means there is a problem.

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We should not give room the way things are so that in future we allow even for amendments or allow for inclusion for this. That is my take and we also agreed that there is no need of having several stadiums, we had agreed that we complete one after which we embark on others, even if it is Migweni we forget about it once and for all. This will be progress.

I will support but I also want to add the reports of the roads where works were shoddily done. The department has endlessly failed to do even normal road works. Why do we want to fix our minds in even any tarmacking, wherever it goes, why do we want to fix our eyes in that and we know that a cost for a tarmac, a kilometer is known.

Why do we want to take money into projects that we cannot easily handle yet the basics, I was perturbed when Ramogi radio was doing a County check and we are in Siaya. A question arose even on the use of tractors, my brother Hon. Otare, authoritatively said that the Assembly did not allocate money for maintenance.

How do have projects like tarmacking? Will we walk on those tarmacs and our stomachs are empty! These are some of the considerations that ought to have been captured in this report. I support.

**Hon. E. Odawa:** Thank you, so much Mr. Deputy Speaker. On the recommendations of the said Committee, page no. 21, the issue of equity across the County should be emphasized. It must be observed at all times because we realize that in Siaya County there is no Ward or region which is important than the other.

I request the Finance Committee to make sure that equity and equitable distribution of development projects are observed throughout Siaya County. The issue of us having one flagship project is very much in order because sometimes having several projects and the same time spreads our wings a bit too thin and whatever we achieve does not seem to be achieved.

The issue of beginning to establish a fish processing plant, I think this one should just stall immediately because we are not even able to supply the local market with fish. For the County to invest money in Fish processing plant yet we have not even infrastructure leading to the fish bandas and beaches, I think it is a project in futility. In my opinion I think this should be shelved, let's do first things first, and let's get our health right because the fish processing plant is not important when people are not healthy.

We cannot go into fish processing plant before we encourage the local fish farmers in doing fish caging in enhancing the production fish. Fish is the raw material which will be used in the fish processing plant and there is no need of putting up the plant before we are sure of the quality of fish that we are going to be producing.

Towards the Siaya stadium, I think before any money is allocated we should have value for money visa vise quality of work done and quantities of work done against money allocated towards the project. The issue of us coming up with 12 stadiums I think should be done away with totally.

There was an issue about tarmacking roads, if you look at recommendation no. 13, it is awkward. Why do I say that? We have only been able to do 1km of roads, how are we going to achieve this? This is just sugar coating for nothing. First and foremost the County should consider roads which are inter-linking one sub county to the other.

If we talk about tarmacking, we need at least 6 roads linking the 6 sub counties to one another. After achieving that is when we can consider linking roads towards hospitals etc. I

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think Siaya County Executive should learn more from Kakamega County. Kakamega County has done well in this, let's have our priorities right.

I hope that our deliberations and whatever we are suggesting here is not just for PR purposes; whatever we recommend here should be brought back here at the Assembly for them to approve so that our contributions here make positive improvements in Siaya County. Thank you.

**Hon. Omwende:** Thank you, Mr. Deputy Speaker. Let me also take this opportunity to echo some issues that I think are very important to me but before that how I wish. This is a House of rules and anything that we may pass, we should also look at our Kenya Laws.

I am talking about the legal aspect and I am very happy from the Committee observation and at the end of it I will seek for your direction because this is very important. The other documents that we may think that they are legal in the real sense they are illegal. The Committee clearly indicated here, I will talk about the PFM Act.

It is clearly indicated here that this is contrary to the provision of section of 126(i) of the PFM Act of 2012. There is also where the Committee indicated here that there was no demonstration that the CECM for Finance had published the plan as required by Section 126(4).

Are we discussing an illegal document in this Assembly knowing that they should have submitted within 7 days in the Assembly? How I wish you could give direction to this because is subject to Constitution. Thank you.

**Hon. Deputy Speaker:** Hon. Omwende, according to your sentiments, are you opposing because all Members are aware that this document is legal and Members only recognize legal documents in this House. Any document that is brought and furnished to Members is legal.

**Hon. Omwende:** Mr. Deputy Speaker, it is clearly indicated, I am talking about the legal aspect of this report and that is why I decided to seek for your direction whether we are discussing the right report. Already we violated the Constitution!

**Hon. Deputy Speaker:** Hon. Omwende, can you kindly indicate the Article?

**Hon. Omwende:** Yes, Hon. Odawa on a point of order!

**Hon. E. Odawa:** Thank you, so much Mr. Deputy Speaker. Is my Hon. Brother, Andrew Omwende, insinuating or implying that this House is engaging in an illegality by considering an illegal document in this Hon. House?

**Hon. Deputy Speaker:** Yes, Hon. Omwende!

**Hon. Omwende:** Exactly Mr. Deputy Speaker. You know the rules of ---

**Hon. Deputy Speaker:** I have requested you to pin point the areas that are illegal!

**Hon. Omwende:** Section 126(i), if you can go through it, that is the County Governments Act 2012. It is a practice that within 7 days the CECM should publicize and give out the plan to the County Assembly, which I believe that the CECM did not have enough time to submit the document.

**Hon. Deputy Speaker:** I will direct Hon. Omwende that as you act we work on the Act that you have directed us to. We allow Members to deliberate on the Motion as we wait for the Motion mover to respond and we will also tackle the areas that you have pointed. Is there any Member with something before I call upon the Mover to reply?

Yes, Hon. Oriaro!

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**Hon. Oriaro:** That we did not know unless you are aware. We have the Law here and Hon. Omwende is talking of a specific, could it be read to us so that we see its relevance.

**Hon. Deputy Speaker:** We are waiting for the clerks as they are acting on the same. Have you opened yours Hon. Oriaro so that you assist us?

**Hon. Oriaro:** Mine lacks power.

**Hon. Deputy Speaker:** This is not a church whereby everybody with a Bible opens his or her verse. As it has been mentioned we have clerks at the Table to direct because Hon. Omwende is questioning the legality of the document that we are debating on which we are all aware is legit.

Yes, Hon. Mboha.

**Hon. Mboha:** Thank you, Mr. Deputy Speaker, Sir. I think this document is legal because there is no way we could be discussing something that is not legal in this House. I think we are just taking too much time for no apparent reason this is a plan for the FY 2020/2021.

All the other details are on particular projects will come in CFSP. Therefore, I was proposing that with your guidance this is a legal document and let us proceed with it and get done with it because we are just going round and round.

**Hon. Deputy Speaker:** Thank you Hon. Mboha and I believe that we are not wasting time since each and every Hon. Member here has a right and we must answer Hon. Omwende to his satisfaction is when we proceed. I think clerk has guided him, I do not know whether he is okay. Hon. Omwende are you okay? Hon. Nick, do you have something to add?

**Hon. Ochola:** I am just requesting your indulgence that we proceed but then in my reply I will respond to his concerns.

**Hon. Deputy Speaker:** I believe that given there is no any other Member who has something to add I will call upon the Mover to reply as he also addresses Hon. Omwende's concern.

**Hon. Ochola:** Thank you Mr. Deputy Speaker Sir, and let me take the opportunity to say a big thank you to colleagues who have contributed to this debate and supported our recommendations therein. As we know and attach the importance of this ADP as part of the beginning of a process of making the actual expenditure budget for FY 2020/2021.

I have noted with quite a big observation, but let me first move straight to the concern of Hon. Omwende that the document we are discussing is not illegal it is a legal document. The Committee only pointed out that it was not in the MTF format. MTF format simple means The Media Term Framework. MTF is a three-year plan, but the ADP that we are talking about here is a development plan and is purely a wish list.

So what the Committee was pointing out is that they gave what they had done earlier that it was not done in MTF but the ADP was presented correctly and according to the Law. It is our duty to point out even when there is an error of indexing or an error of paragraphing, which does not make a document illegal and that is the basis at which we pointed out that.

Observation on the demonstration that there was no publishing and publicizing of the document. What we said is that there was no demonstration and the statement ended there so if we say that it was not publicized then we would be on the wrong path.

All said and done this is a wish list as I said and in any case, we are talking of about a budget of Kshs. 10 Billion while you and I knows that our resource envelope never surpasses

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Kshs. 7 Billion. So actually, this is the process and the stage of the budget where we say all the garbage are being put in.

So we will allow all the garbage in the ADP but we will sieve them at the Fiscal Strategy Paper and as I mentioned earlier that for example I got to the observation which has correctly been observed by Hon, Engineer Odawa Erick, that the 12 stadiums be done away with. We recommend that they involve us so that we know which these 12 stadiums we are talking about are.

In any case, maybe the word Stadium may sound big but what they were planning to do was to rehabilitate the open fields that we have in our various sub-locations where our young boys and girls play. In a way we could have smart goal posts, we could even erect a small dais of a prefab and actually, they are as minute as gobbling Kshs. 1 Million or even less. Therefore, they are not the stadium of the imagination that we may think of like the Siaya stadium of Kshs. 400 Million.

I cannot agree more with Hon. Odawa that the fish processing plant we cannot even with the big L. Victoria to the market to the extent that fish even comes from China. That is the reason why the Committee proposed that instead of putting money for fish processing plant though I can't remember the figure exactly but it was around Kshs. 50 Million, let us do a feasibility study because we did not want to shot recommendations on the foot, some which we could just give a second chance of life.

Feasibility study would come out in two ways either in a negative or positive way. For instance, a negative way would be that it is not viable then we go the way the Hon. Member had suggested that we do away with it.

Again, I cannot agree more with Hon. Oriaro that we do not allocate any more funds to the Siaya Stadium project, which was our recommendation until and when money is exhausted.

**Hon. Deputy Speaker:** What is your point of Order Hon. Odawa?

**Hon. Ochola:** Thank you Mr. Deputy Speaker Sir. It might not be quite point of Order but equally the same. On the issue of feasibility study, we have realized that the County Government of Siaya has lost a lot of money to issues pertaining to feasibility study.

Hon. Oriaro for instance in his Ward has been a victim of the same, so the issue of feasibility has been used as a conduit to steal money from the people of Siaya County. The issue of feasibility study should actually should be done away with, thank you.

**Hon. Deputy Speaker:** Yes, Hon. Oriaro. Is it on the same point?

**Hon. Oriaro:** Yes, I want to stress it with what we can see. On the previous Budget, leave alone this one; we had the provision of Got Akara water project to the tune of over Kshs. 40 Million. What happened is that they did feasibility study and reported that there is no water until to date.

Hon. Otiato has been mentioning Lake Kanyaboli dike, which was Kshs. 30 Million initially. They did feasibility study instead of repairing the Budget is when they brought on board another Kshs. 20 Million.

So this issue of feasibility study without them even reporting on the outcome of those feasibility studies reporting by following such like projects in the continuing projects. Therefore, the idea of feasibility study should be a thing of the past if we really mean well.

**Hon. Deputy Speaker:** Yes, Hon. Odawa, North Alego.

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**Hon. V. Odawa:** Actually I was standing on a point of order. I was wondering if the two Members are in order to contribute twice.

**Hon. Deputy Speaker:** Hon. Ochola, proceed.

**Hon. Ochola:** Thank you, Mr. Speaker, Sir. Allow me to thank the Member of North Alego for pointing out that my two colleagues were contributing again, having contributed earlier, but that is beside the point, I am not going to assume the fact that it did reach our ears.

If past history have shown us that feasibility study does not bear any fruit or they are conduits of siphoning funds, then that will be the best candidate because we will be striving towards when we are doing our CFSP to see how best we are going to achieve our basket of Kshs 7 billion.

So we have some Kshs 3billion to knock out of this. So I positively take the observation. Lastly, I wish to mention that as I said earlier, this ADP is anchored on our CIDP. Our CIDP has the proposal of tarmacking 20 km of road.

If my memory serves me well, so far we have only done one, and we are in medium, so towards the achieving CIDP, the department of roads, we put them into great of task to tell us how they are going to achieve this, and they were saying they want to even achieve 60% of their intended target from the CIDP.

Correctly observed is that what would be given emphasis as the roads which are in Sub counties before we move to roads which are connecting schools and hospitals. It will be a tall order to achieve the later because we have so many schools, so many hospitals, and that it would be easier to develop roads that link one sub county to the other, but by and large, it is what is anchored in the CIDP. So based on that I sincerely and honestly ask my colleagues to support this report. Thank you.

*(Question put and agreed to)*

### **MOTION**

#### **CONSIDERATION OF GOVERNOR'S MEMORANDUM ON THE VILLAGE ADMINISTRATIVE UNIT BILL, 2018**

**Hon. Deputy Speaker:** Chair Committee of Governance and Administration

**Hon. V. Odawa:** Thank you, Mr. Speaker. The issues here are so pertinent that I cannot request that we have a substantive speaker.

**Hon. Deputy Speaker:** Order, Hon Members. We are all aware that the Hon. Speaker is on his way coming, but as we wait for him to come, you as the Chair of the Committee is in a position to give direction and with what is supposed to be discussed. Chair?

**Hon. V. Odawa:** Thank you, Mr. Speaker. We did receive a Memorandum from the Governor on the said issue that is the Village Administrative Unit Bill 2018. The Governor stated two issues. One was on the age limit, the Governor in his wisdom saw it that the age limit should be 35 years and above, and in our Bill, we had put the age limit at 18 years and above.

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So in our consideration, I think this one still captures the Governor's wish of maybe his age maybe from 18 years upto 120 years. So his worries are well taken care of. So with age limit, I believe that we are okay, in consideration that we retain the age limit of atleast 18 years.

**Hon. Deputy Speaker:** Hon. Chair, I would urge you to put a pause on the same as we welcome the Hon. Speaker.

*(The Speaker assumed his seat)*

**Hon. Speaker:** Next Order

**MOTION**

CONSIDERATION OF GOVERNOR'S MEMORANDUM ON THE VILLAGE ADMINISTRATIVE UNIT  
BILL, 2018

**Hon. V. Odawa:** We did receive a Memorandum from the Governor on the said issue that is the Village Administrative Unit Bill 2018. The Governor stated two issues. One was on the age limit, the Governor in his wisdom saw it that the age limit should be 35 years and above, and in our Bill, we had put the age limit at 18 years and above, so in our consideration, I think this one still captures the Governor's wish of maybe his age maybe from 18 years up to 120 years.

So his worries are well taken care of. So with age limit, I believe that we are okay, in consideration that we retain the age limit of atleast 18 years. That will definitely take care of our youth, and even the elderly, the one maybe even our Governor's wish to employ as Village Administrators.

Another issue, the Governor had in his memorandum was the number of units. In this Bill, we had said the number of units to be 188, and this is informed with the fact that we had indicated the number of the Sub locations as units. But in his wisdom, he had indicated that we scrap this number of 188, and that one brings it to 94.

He did not tell us how he atleast arrived at this figure, because we are not sure of maybe which wards to be merged and which ones not to be merged. So we are not sure about this.

Another thing with this merging it's that it is going to hurt the already to hurt the already ballooning blotted wage bill. Of course the Governor is right on this. We are all aware that the wage Bill of Siaya Country is so bloated, but in some designs, it is his own doing. You remember there was a time we had a concern about the illegal employments because those are some of the issues that have made the wage Bill to increase to a very high figure.

So our recommendation on the illegal employment was sadly ignored thus this has a big effect on the ballooning wage Bill. He has also not given us anything on the remuneration because as expected that from the village administrators, we should know how they will be remunerated so that we can know the salaries vis-a-vis the total figure that will push the wage bill to a higher note.

Just recently, the last salary that was given to employees from the Executive was done by way of cheque and we are reliably told that there are so many Cheque lying idle there.

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That means there could have been ghost workers, people fear going to collect them. With all these, I believe that this one needs further consultation and as you are aware we are going for long recess and I really need your guidance on this one. Thank you.

**Hon. Speaker:** I will give guidance but in the meantime the Budget and Appropriation Committee has asked me that they have the Supplementary Budget and they want to table today. I have permitted them to table but I will be giving you conditions, so go ahead and table it.

**Hon. Ochola:** Thank you, Mr. Speaker, Sir.

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

**Hon. Odongo:** Thank you, Mr. Speaker. I would like to know if it is in order for the Budget Committee to request through the Speaker's office whatever document that is supposed to be tabled is not featuring in the Order Paper of today?

**Hon. Speaker:** Hon. Andericus is quite in order; it is not featuring before the Order Paper as a document for tabling. We are closing today, in the wisdom of the Chair; it is properly before the House for tabling but not for debate. Can you proceed and table!

**Hon. Ochola:** Thank you, Mr. Speaker, Sir. First of all allow me to say thank you and appreciate on behalf of our Committee for allowing us to table this document but before I table, allow me to express my disappointment and displeasure from the Executive for bringing this document very late when we are closing this Assembly. I wanted it to go into record that we are not very pleased with it but all the same you have allowed us to table.

Allow me to lay on the Table the 2019/2020 Supplementary Budget.

*(Document is laid on the Table of the House)*

**Hon. Speaker:** Hon. Members, before the document was laid I asked myself several questions. When a document is brought into the Assembly and we are aware that a document has been brought into the Assembly, touches on matters within your Wards and a matter if it is not before the Committee officially then is stopped from discussing it.

I thought it fit to table it so that the Committee and you can indulge in that document during recess. If we do not allow it then it remains a foreign document, to the extent that we have allowed it in it becomes an Assembly document then that can be produced copies and circulated to you. Now that it is properly before you, I direct the clerks to ensure that they produce sufficient copies for everyone to have a look at it and the Budget Committee to consider during this period.

The Executive must be warned very strongly that our Calendar is a public document which as per the Standing Order no. 25 was approved, published, gazzeted and published again in our website and in two newspapers of National circulation.

The Executive is well aware that we are going on recess today; to attempt to bring a document today would be like the Executive wants the Assembly not to go on recess, so indirectly they will be running the Calendar of the Assembly. That is not acceptable.

Therefore in terms of time within which the Committee can consider the document, I want to guide that time will only run from the time we open or resume our Sitting, however, if the Committee will have concluded with the document and involved you sufficiently and you



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feel that it meets the threshold of Standing Order no. 26 then we can call a Special Sitting and discuss it as per the Standing Order provisions.

It will have to be extra ordinary business, urgent business then we can sit, otherwise we will start counting days when we open. That is as far as the Supplementary Budget is concerned; therefore the Committee and the House stand guided accordingly.

On the Village Administrative Units, allow me to respond as follows; Hon. Members, during the morning Sitting yesterday 4<sup>th</sup> of December, I reported the receipt of memorandum from the Governor, the conditions therein and grounds for referral.

We committed the memorandum to the Committee on Governance and Administration for consideration and reporting day. The Committee having looked at the memorandum and --- on its contents have reliably informed me that the issue of age limit as provided for under Section 8(1) of the Bill, the Committee is on the opinion that setting the age limit at above 18 years and remember they said that the age limit is above 18 years does not in any way jeopardize chances of persons above 35 years as recommended by the Governor.

In addition, to consider the proposal of the Governor on the age limit of being above 35 years the Committee is on the opinion that it will disadvantage persons between 18 and 34 and hence the law will be discriminatory. The Committee is of the opinion that persons of the majority age should be given equal opportunity.

The Committee further feels that the age limit set by the Committee which is above 35 or the recommended age limit by the Governor which is above 35 falls within the above 18 years and it does not infringe on any law. On the issue of the number of post village units, the Committee seeks more time so that they could unlock following main issues;

1. Scientific justification on how managing the 188 village units will suffocate the wage bill by stating clearly on how much will be consumed by each Village Administrator or that unit in its operationalization
2. Clear suggestions on how to arrive at the half. Remember the Governor's recommendation talks of reduce it by half but does not or falls short of giving details, the Committee feels that it will be more important if there are suggestions from the Governor would include names of these villages and the numbers per Ward per Sub County without which it is not very useful to the Committee to just say half.
3. The Committee wants to engage with the Executive to ascertain if there could be any savings on the cleaning of the payroll to get rid of ghost workers and the issue of implementation of the House report on the irregularly recruited staff by the Public Service Board.
4. The Committee wants to find out if there could be other mechanisms of reducing costs of running the Village Units one by way of contracting the Village Administrators or having them on part time or sharing offices with the already existing office holders within the structure of the Executive to reduce costs before we talk of reducing these numbers.

Members, I find these matters weighty and that they require consultation between the County Assembly through its Committee on Governance and Administration and the Executive. On the matter of number of days for consideration by a House, memorandum from the Governor, I am aware of the provision for 14 days. However, I am also compelled to guide this House that

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the provisions under the Statute and Standing Orders are only applicable when Assembly is in Session and not when it is on Recess.

Therefore, time will only run when we resume, I direct that you consider your wide consultations with Members and the Executive and if your report is ready you can within the provision of the Standing Orders 26 call upon the House to reconvene under Special Sitting or wait until the House reconvenes in February. Whichever is earlier and therefore the House stands guided.

Hon. Members, I promised yesterday that I would be addressing some two Petitions that had come to this House. More so they have been reignited by correspondence received from concerned parties.

Yesterday we received correspondence from some petitioners from South East Alego Ward on their petition in the declaration of vacancy in the office of the MCA South East Alego. I guide as follows:

That on the 7<sup>th</sup> of May the Hon House received a petition from the following 5 residents of South East Alego Ward to find Hon. Joseph Mboha liable for vacation of office under Article 194(1) of the Constitution of Kenya Sylvester Odero Owuor, Michael Odinga, Shadrack Onunga, Nicholas Rajula and Francis Owino.

In their prayers the petitioners had wanted us to find the Hon. Mboha liable for missing 8 consecutive Sittings as provided for under the law under Article 194(1) which states that the office of the MCA becomes vacant if the Member is absent from 8 Sittings of the Assembly without permission in writing of the Speaker of the Assembly and is unable to offer satisfactory explanation for his absence.

Hon. Members, you are well aware that members of the public under Section 15 of the County Government Act 2012 and Article 35 of the Constitution have a right to petition the assembly.

You will recall Hon. Members that on the 16<sup>th</sup> of July 2019 in the course of processing the Petition we received a court order issued by Hon Lady Justice Aburili sitting in the High Court of Kenya at Siaya which ordered that we pend those investigations guided by the provisions of our Standing Order 94 on matters sub judice or matters before a court of law we are unable to proceed until the determination of the suit in court.

I therefore direct the Office of the Clerk to communicate to the petitioners that guided with the sub judice rule we are not able to process their Petition as at now until the court will pronounce itself on the matter. The House stands guided.

Another Petition is on the nomination of Boniface Onyango Obare to the Siaya Municipal Board. I refer you to a communication made on the Wednesday, 24<sup>th</sup> of July 2019 where I reported to the House the nomination of the Governor of persons for vetting to fill in the position of Siaya Municipality Board as per the provisions of the urban areas and cities amendment Act 2019.

In the course of committee deliberations after the list was committed to the Committee on Lands, Physical Planning, Survey and Housing during the vetting the committee received a petition from Siaya Township BodaBoda Sacco praying for the rejection of the nominee on grounds of the following:

1. They were not aware of his level of education,

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2. They contested his residence in Siaya Township Ward
3. He was not a member of the Township Bodaboda SACCO
4. They were not consulted on his nomination and the signature of the groups treasurer which had approved his nomination was forged.

Hon. Members guided by the Public Appointments and Assembly Approvals Act 2016 Section 8 talks of issues for consideration which include;

Procedure used to arrive at the nominee including the criteria for shortlisting of the nominee, any constitutional or statutory requirements relating to the office in question.

To this regard the Committee on Fiscal Planning tabled a report which deferred the nomination for the approval of the nominee to allow investigations continue in unlocking those issues raised in the petition.

On the 11<sup>th</sup> of September 2019, the same SACCO presented another petition seeking to withdraw the first petition in which they had contested the approval of a nominee claiming that the matters that formed the subjects of the first petition had been discussed and resolutions arrived at.

On October 8<sup>th</sup> before the House pronounced itself on this matter the House received another petition from Alego Usonga Umbrella Association which claims to be an umbrella body to which the Siaya Township BodaBoda SACCO is an affiliate.

In the petition the body expressed grave concern in which the matter of approval of the nominee was being handled by the House.

On the same day a group of *bodaboda* riders under the umbrella of Usonga Bodaboda Association came to the Assembly shouting, hooting, whistling and waving anti Assembly placards and twigs demanding to see the Speaker in an unruly manner as per the report I received from the office of the Sergeant-at-Arms

I want to bring your attention to the provisions under Powers and Privileges Act which provides that a person shall not by fraud, intimidation or threat of any kind by the officer or offer or promise of any inducement or benefits of any kind or by any other improper means influence in the performance of members function as a Member

Issues raised in this particular petition are matters which are key in the consideration of a nominee's suitability. The manner of nomination and the Constitutional requirements. Having received this petition and the developments that followed I find that this House cannot continue discussing this particular nomination until we get an impartial report by an independent institution as to the following facts

Whether the issues raised in this petition surrounding forgery surrounding manner of nomination are genuine

The motive behind the action of the bodaboda people in withdrawal and in approaching the Assembly in unruly manner.

I therefore direct that this matter be handed over to the DCI for investigations to report to the House the motive behind their action to come to the Assembly, the motive behind the first petition, reveal whether or not the signature amounted to forgery and thirdly to reveal to the House whether this nominee is a resident as claimed.

It is until that moment that we receive a report that we would be able to process this name because integrity is key manner or procedure of nomination is equally key to us it cannot

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be left to the whims of individuals to come to the morning they claim there is forgery they come back in the afternoon they say we have discussed that is not how this Assembly should work. The House stands guided.

**COMMUNICATION FROM THE CHAIR**

LONG RECESS

Hon. Members I want to thank you for your time and commitment during this session. Our Standing Orders on regular sessions provides that under Standing Order 24 that the next session of the County assembly shall be on the 2<sup>nd</sup> Tuesday of February every year and also provides that pursuant to Standing Order 24 there can be a Special Sitting by the Assembly if the Business to be transacted is urgent and is of exceptional nature I want to thank you for the commitment you displayed during this period and I also want to wish you a Merry Christmas and a Prosperous New Year.

We may not meet in the Plenary but the committees should be able to perform their duties on time I am aware the committee of general oversight should even be convening next week Monday which will be communicated to you so that you dispense with the business you have.

I am also aware that several committees which will be doing their work of the County Assembly so I just want to wish you a peaceful moment wherever you go if need be you can always convene in the chambers and transact as need arises otherwise am proud of you and may God help you when you retire back home.

*(Applause)*

**MOTION**

ADJOURNMENT

**Hon. Speaker:** There being no other Business this House is adjourned until the second Tuesday of February 2020 or pursuant to Standing Order 38 which provides for Special Sitting.

The House rose at 3.50 p.m.