

REPUBLIC OF KENYA
NYANDARUA COUNTY ASSEMBLY
1ST ASSEMBLY- 5TH SESSION

OFFICIAL REPORT

Tuesday 20th September, 2016

The Assembly met at the Assembly Chamber (P.C.E.A Hall) at 2.30 p.m.

Deputy Speaker, Hon. Wambugu King'ori, in the Chair.

Prayer

QUORUM CALL AT THE COMMENCEMENT OF THE SITTING

(Clerk-at-the-table confirms that there is no quorum)

Speaker: There being no quorum, I direct that the division bell be rung for the initial ten minutes or until such a time within those ten minutes that the quorum will have been achieved, pursuant to Standing Order number 34.

(Division bell is rung for three minutes and quorum is achieved as confirmed by the clerk-at-the-table)

Speaker: Quorum having been achieved, let us proceed with the business of the day.
First order.

COMMUNICATION FROM THE CHAIR

WELCOMING MEMBERS

Speaker: Honourable Members, I take this opportunity to welcome you back from the long recess as we convene again for the Third part of the Fourth session of the First Assembly. It is my hope that you all had a fruitful and gainful time while on recess. I also do hope that you had a chance for interaction and close consultation with the electorate, thereby, giving you a good grasp of the issues that *wananchi* are concerned about as well as the appropriate responsive action to take. I am optimistic that the knowledge acquired will go a long way in informing the agendas to be deliberated upon in this House.

I wish to state at this point that this is going to be a very busy and crucial part of our session. A highlight on some of the key businesses that awaits the House are:

1. Consideration of the Finance Bill, 2016;
2. Consideration of the Nyandarua County Annual Development Plan;

3. Consideration of various bills and legislative proposal;
4. Consideration of petitions; and
5. All other pending matters before the Committees.

Honourable Members, towards this end, I wish to beseech you that each and every one of us shall put our best foot forward and ensure that we diligently carry out the duties which we have been called to. I wish you all the best in your duties and endeavours during this part.

Thank you Honourable Members and May God bless you all.

PAPER LAID

REPORT ON THE STATUS OF GETA COOPERATIVE SOCIETY.

Speaker: Yes, Member for Gathaara and Chairperson, Committee on Trade, Cooperatives and Enterprise Development, Hon. Daniel Kibebo.

Hon. Daniel Kibebo: Thank you Mr. Speaker sir. I table the report of the Committee on Trade, Cooperatives and Enterprise Development on the Response to the Statement Sought by Hon. John Githinji Mwaniki on the Status of Geta Cooperative Society. Mr Speaker, I table.

Speaker: Very well, that report has been duly tabled and the House Business Committee shall allocate time as to when the same shall be processed.

Next order.

MOTION

THIRIRIKA/KARIA-INI DAM AND ITS RIPARIAN LAND IN MAGUMU WARD.

Speaker: Yes, Hon. Githinji Mwaniki, Chairperson, Committee on Lands, Housing and Physical Planning.

(Hon. Kariuki Muchiri, Leader of Majority Party rises on behalf of Hon. Githinji Mwaniki)

Hon. Kariuki Muchiri: Thank Mr. Speaker. On behalf of the Chairperson, Committee on Lands, Housing and Physical Planning, I beg to move the following motion:

That this House adopts the Report of the Committee on Lands, Housing and Physical Planning on Thiririka/Karia-ini dam and its riparian land in Magumu Ward in response to a statement sought by Hon. Githinji Ngumba as a report of this House and the recommendations therein as resolutions of this House.

Mr. Speaker sir, this report emanated from a statement that was sought by the Leader of the Minority Party, Hon. Githinji Ngumba, whereby he sought to get some clarification on some issues. This formed the terms of reference of the report. The committee deals with matters of Land, Housing and Physical Planning and therefore, it was mandated to take up the matter.

Mr. Speaker, please allow me to read the statement for the members to understand the source of this report. It reads;

Mr. Speaker sir, I hereby seek a statement from the Chairperson, Committee on Lands, Housing and Physical Planning addressing the following concerns:

Aware that the Constitution of Kenya 2010, under articles 62, 63, read together with paragraph 8 of part II of the fourth schedule provides for public land, community land and land survey and mapping respectively.

Further aware that Karia-ini dam has been a public utility where residents benefit from and where several institutions and public amenities have been established, namely, a nursery school, sheep and cattle dips, registered polling station and police post;

Concerned that the land was allocated to a group of persons under the name of, 'Thiririka Self Help Group', which is alleged to be a family initiative;

Further concerned that the public no longer benefits from the water from the dam and noting further that access to the above mentioned public utility on the riparian land has been restricted to the said group resulting to conflict with Karia-ini and Thiririka residents.

Arising from the foregoing, I seek that the Chairperson Committee on Lands, Housing and Physical Planning provides the following information:

- i. The circumstances under which Thiririka Self Help Group was allocated Thiririka – Karia-ini dam and its riparian land.
- ii. The status of ownership of the land on which the nursery school, sheep and cattle dips, the polling station and the police station are situated;
- iii. The allotment letters, title deeds or any other ownership documents, and the status of ownership (whether private or community land; and
- iv. The measures taken to ensure that public utilities including the dam benefit the residents and the community of Magumu ward.

Mr Speaker that was the statement that was sought by the Hon. Member for Magumu ward. The committee perused various documents and made a site visit. Some of the documents that the committee came across included maps, searches it conducted with the aim of establishing the truth of the matter. A search conducted by the committee on January 29th 2016 revealed that the land has a title deed which is absolute and measures approximately, 6.4 Ha. This translates to about 16.0615 acres. The title deed was issued on 3rd April 2008 to Thiririka Self Help Group.

The search also revealed that there is a restriction on the land. This is because of a dispute that arose between the registered members of the group (Thiririka Self Help Group)

and the community at large. The restriction was conveyed through a letter written by the District Officer of Magumu Division and it was dated 9th February 2012. The other section shows that there are no encumbrances and no pending caution. This means the title is not charged. Therefore, copies of the document (title deed) are in the members' files and the letter is also attached to this report.

Having said that, I would like to take this House through the findings of the committee after it made the site visit. The findings include:

i. There were clearly identifiable beacons around the dam and its riparian land.
Mr. Speaker, we had the opportunity to go around the dam.

ii. Thiririka/Karia-ini dam, and its riparian land, covers an area of approximately 6.5 hectares (16.0615 acres) as I had mentioned earlier.

iii. The dam provides water top the residents throughout the year.

Mr. Speaker, this is evident even from the annexes of this report. The back pages of the report show photographs captured during the site visit. I now wish to call upon the Hon. Members to go through the photographs and the footnotes as I read through the findings.

iv. The riparian land has a manmade forest of cypress and eucalyptus trees some of which were young and growing while the others were mature.

v. There were four wooden houses constructed for Kenya Administration Police officers.

Mr. Speaker, as a result of insecurity, the residents decided to put up structures that could house the officers. By the time we visited the site, we found no occupants of the houses because of the dispute. When the dispute arose, the APs who provided security to the people were relocated.

vi. That there is a complete and permanent nursery classroom.

This is evident from the photographs contained in the annexes of the report.

vii. A cattle dip and a sheep dip which are not functional. There are two pit latrines situated differently but within the land.

Apparently, the dips were vandalized for the reason that Thiririka Self Help Group wanted to remove any evidence that the utilities used to be owned by the community. The two latrines were also vandalized.

- viii. The committee found donkeys and sheep grazing there, implying that the riparian land is used by the community for grazing.
- ix. There was an old man by the name, Mr. Samuel Gathungu who was given a portion to reside there by the then former chief, Mr. Chege Murenga.
- x. The remaining land is covered by spinach, kales and maize plantations belonging to Thiririka Self Help Group.
- xi. There was a signboard which read ‘THIS LAND IS THE PROPERTY OF THIRIRKA S.G.H. NO TRESPASSING’.

As I had mentioned earlier, the whole of the riparian land is not fenced and therefore, the erected signboard was meant to stop the community from accessing and utilizing the dam and all other utilities.

- xii. Two groups claim ownership of the land in question. One named Thiririka Self Help Group and the other Thiririka Cattle/Sheep Self Help Group.

It is important to inform this House that Thiririka Cattle/Sheep Self Help Group was the original group. It was registered to look into the matters of the dam and the riparian land. As time went by, however, some people used clever tactics to dethrone Thiririka Cattle/Sheep Self Help Group from the leadership and custodianship of the riparian land and the dam. In fact, the group ensured that both the cattle and sheep dips were constructed. This is in addition to the nursery which was later used as the polling station as well as the AP houses. Therefore, this group represented the interests of the community. Later a group of people claiming to take over the control of the entire project emerged and formed the Thiririka S.H.G. It was a breakaway group from the initial Thiririka Cattle/Sheep Self Help Group that was owned by the entire community.

Mr. Speaker, we found, during the investigations that Thiririka Self Help Group is a family affair despite possessing a title deed. This is the reason for existence of this huge dispute.

- xiii. The two groups are registered under the Ministry of Labour, Social Security and Services and Ministry of Gender, Sports, Culture and Social Services respectively.

- xiv. The two groups have different registration dates. Thiririka Self Help Group was registered on 12th February 2012 and Thiririka Cattle/Sheep Self Help Group was registered on 26th November 2007.

Mr. Speaker, you can see that Thiririka Self Help Group was actually formed five years after registration of Thiririka Cattle/Sheep Self Help Group.

- xv. Thiririka Irrigation project was owned by Thiririka Self Help Group which was in possession of the land's title deed numbered NYANDARUA/SOUTH KINANGOP/563 which was clear of encumbrances, fee or absolute and the land size indicated as approximately 6.5 hectares.
- xvi. That the Thiririka Self Help Group, at the time of registration, had 30 members.
- xvii. Thiririka Self Help Group is a family owned project and, therefore, does not help the members of the public as it was intended by the original Thiririka Cattle/Sheep Dip Self Help Group.

Mr. Speaker, the reason they called themselves Thiririka Cattle/Sheep Dip Self Help Group was that they to manage both dips.

- xviii. That all development made on the said land was meant for Thiririka residents - not a private group or a family.
- xix. That the Thiririka Self Help Group had started destroying structures such as cattle and sheep dips on the said land.

As I mentioned, this was done to remove any evidence showing that the dips belong to the community. Again, Thiririka Cattle/Sheep Dip Self Help Group was formed first and the group that was formed later came up with the intention of creating confusion since the two groups are called Thiririka. You will therefore note that the first one is the one that had the ownership.

- xx. That the Thiririka Self Help Group had benefitted from tanks donated by the National Government to facilitate the irrigation project.

- xxi. That the Thiririka Self Help Group negotiated with Nyandarua County Government which agreed to donate 10 greenhouses and materials to fence the irrigation project.

Mr. Speaker, the area is not fenced because of the good work that was done by the area MCA who intervened and stopped the fencing of that area. In fact, if the area was to be fenced, the community would have been restricted from accessing it.

- xxii. That Thiririka Cattle/Sheep Dip Self Help Group had worked tirelessly to repossess the said land including even going to Ardhi House on the same but nothing good had materialized.

Actually, the group had tried and is still trying to get the dam and the riparian land back to the community. Indeed, it is the reason that this statement was sought so that the House, through the committee, could make resolutions on how to help the residents because the dam has already been grabbed.

- xxiii. There were two small permanent generator houses on either side of the dam, one belonging to a Mr. Kageche and the other to a Mr. Kamau Kagunda.

The latter happens to be the Chairperson of Thiririka Self Help Group. This is a big dam that can be used for irrigation and at one time, this water was being used for irrigation.

- xxiv. That the nursery classroom was used by the defunct Electoral Commission of Kenya (ECK) and the current IEBC from the year 2005 to 2010. However, when the IEBC learnt that the building sat on private land, it transferred the polling station to another area. This had an adverse effect on the residents as they are forced to walk long distances from their homes to the civic duty of voting.

- xxv. That the Kenya Administration Police Officers had been relocated to Bamboo Cooperative Society building leading to reduced security in the area.

Mr. Speaker I do not have to go through the responses. Through the submissions, the committee learned that these were people who were bent on grabbing the land.

Those are the findings and the evidence that the people in question actually used dubious means in acquiring the land is there. If you peruse through the annexures, you will find letters from the settlement department. You will also find that Thiririka Cattle-Sheep Dip Help Group had registered with the defunct Nyandarua County Council and renewed their certificate of registration in 2009.

Let me now move on to the committee's recommendations.

That the community in question should continue using the utility because originally it was theirs. We could not recommend otherwise.

That Thiririka Self-Help Group should not be allowed to fence the land in question to allow for free access to the facility by the larger community. The County Government should make that communication.

That within 60 days, the CECM in charge of Lands, Housing and Physical Planning Department should report to the committee on the progress made. This should have been the last recommendation Mr Speaker.

That the County Government should put a caution on the said parcel of land until the issue of ownership is determined.

That Thiririka-Kiria-ini community be advised by the CECM for Justice, Legal Affairs and Public Service to put a court injunction on the land parcel—Nyandarua/South Kinangop/563. If this is not done, the said community can even charge the property at the bank in order to get money. You know the disputes surrounding the land in question are many.

That the CECM in charge of Lands, Housing and Physical Planning Department should liaise with NLC and make sure that the title deed for Thiririka Self-Help Group is revoked and the land given back to the community.

That the County Government should not fund any Thiririka Self-Help-Group project as it does not represent the interest of the larger community. Earlier the County Government had funded the group but it was realized that the group comprises of few individuals.

Mr. Speaker, this House has come up with many reports and many resolutions but the challenge of implementation has been prevalent. Implementation of the resolutions emanating from the report at hand, which I urge this House to adopt, should be taken very seriously.

I now call the Chairperson of the Committee on Lands, Housing and Physical Planning to second the motion. Thank you Mr. Speaker.

Speaker: Yes, member for Geta, Hon. Githinji Mwaniki.

Hon. Githinji Mwaniki: Thank you Mr. Speaker. I rise to second the motion. The Leader of Majority has taken us through the report and it is itself self-explanatory. Thiririka Self-Help Group is a family venture. That is why the committee intervened to make sure that the interests of the larger community are considered. The title deed of the parcel of land in question should be revoked.

Land grabbing has been rampant in our county but the County Government should ensure that the people benefit from public utility. I will not say more because the report is self-explanatory. I beg to second.

(Question proposed)

Speaker: Yes, member for Githioro, Hon. Silvester Kagiri Mwangi.

Hon. Silvester Kagiri: I rise to support the motion. There are public resources lying on the parcel of land in question. There has been collusion between the settlement office and the would-be land grabbers. The Commissioner for Lands should intervene in this. Land grabbing has killed the past and the present and is killing the future of our generation. If this trend continues, there will be no public land in the future and our children will blame us. Remember the population is growing but land is not expanding. We will be a worried lot at the end of our term.

What will we have done if implementation of most of our resolutions, as the mover of the motion said, are not implemented? The report at hand was compiled after thorough investigations by the committee. While forwarding the resolutions of this House pertaining to the report at hand to the Executive, a very strong letter should be written to the Department of Lands, Housing and Physical Planning pertaining to the issue at hand because if it is not resolved, there could be bloodshed in the future. I beg to support.

Speaker: Yes, member for Magumu, Hon. Githinji Ngumba.

Hon. Githinji Ngumba: Thank you Mr. Speaker. I rise to support the motion and commend the Committee on Lands, Housing and Physical Planning for a job well done. I urge that the recommendations of the report at hand be adopted.

I am the member for Magumu where the parcel of land in question is. I know the two self-help groups that have interest in the said parcel of land. Mr. Gaitho, who is Thiririka Self-Help Group's secretary, happens to be a brother-in-law to Mr. Juma Kagunda, who is the group's chairperson. The lady who was to be the group's secretary is the daughter-in-law to Mr. Juma Kagunda. I therefore hereby affirm that the group is a family venture and it was formed with the intention of grabbing public resources. If we allow this menace of land grabbing to continue, we shall be judged harshly by history.

Mr. Juma Kagunda is an old man. He is over eighty years of age but he is a crafty old man. The submission he gave to the committee were based on lies and were it in a court setting, he would have been declared a hostile witness.

As stated in the minutes of the Committee on Lands, Housing and Physical Planning (attached to the report) held on 11th February, 2016 Mr. Juma Kagunda submitted that “the nursery classroom was used as a polling station by defunct Electoral Commission of Kenya which was later transferred to St Christopher due to decrease of voters in the polling station.” This is a lie. Were voters decreasing or increasing Mr. Speaker? Mr Juma Kagunda was involved in an act of transferring a polling station to about five kilometres away. He also submitted that “the nursery school lacked pupils as a result of neighbouring public schools having enrolled pupils from their nursery schools and therefore denying pupils from the said nursery schools chance.” This is also a lie.

Magumu ward has only six public schools. The public school neighbouring the nursery school in question is five kilometres away. You can imagine small nursery-going children walking for five kilometres to access education. He further submitted that “Thiririka residents had also built wooden administration police post on the land in question. The D.O transferred the administration police to his office for security purpose.” The D.O’s office is more than ten kilometres from the land in question. You can imagine the lies that were told by the man who is over eighty years old.

Thiririka Cattle/Sheep Self-Help Group was registered before Thiririka Self-Help Group. As stated in the report, the committee observed that there is on the land “a signboard which reads: ‘THIS LAND IS THE PROPERTY OF THIRIRIKA S.H.G, NO TRESSPASSING’.

I concur with Hon. Silvester Kagiri that if the issue at hand is not resolved, there could be bloodshed in future. I urge the CECM for Lands, Housing and Physical Planning to hasten the process of repossessing the land in question for the benefit of Thiririka Community. I beg to support.

Speaker: Yes, member for Nyakio, Hon. Joshua Muriithi.

Hon. Joshua Muriithi: Thank you Mr. Speaker. I rise to support the motion. The dam in the land in question was a community dam but it was later possessed by the Thiririka Self-Help Group. The dam, before being taken by Thiririka Self-Help Group served the Thiririka community. With regard to the above, a dam at Sulmac in my ward was possessed by a group of individuals. There are other community dams in my ward which have been possessed by individuals and I would request the Committee on Lands, Housing and Physical Planning to make a tour of my ward to inspect them.

All the community dams possessed by individuals should be repossessed by the County Government. The report at hand should be adopted and the resolutions emanating from it implemented. I support the motion and I call the mover to respond.

Speaker: The mover, Hon. Kariuki Muchiri.

Hon. Kariuki Muchiri: Thank you Mr. Speaker. As I said when moving the motion, it is critical that the Office of the Speaker makes a communication to the Executive on the timelines for the implementation of the resolution of this House, emanating from the report at hand.

I wish to thank the Offices of the Speaker and Clerk for facilitating the committee to do investigations and compile the report. I thank the committee clerk for his good work. I also thank my fellow members for their support and for contributing in the motion.

I finally urge this House to adopt the report. I beg to move.

(Question proposed)

Speaker: Next order.

MOTION

REPORT OF THE COMMITTEE ON ROADS, PUBLIC WORKS AND TRANSPORT ON THE
CONSTRUCTION OF NDANJO MUSYOKA ROAD.

Speaker: Yes, Hon. Kimani Gachuhi.

(Hon. Joshua Muriithi rises on behalf of Hon. Kimani Gachuhi)

Hon. Joshua Muriithi, have you risen on behalf of Hon. Kimani Gachuhi?

Hon. Joshua Muriithi: Yes.

Speaker: Proceed.

Hon. Joshua Muriithi: Thank you Mr. Speaker...

(Hon. Githinji Ngumba rises on a point of order)

Speaker: What is it member for Magumu, Hon. Githinji Ngumba?

Hon. Githinji Ngumba: Mr Speaker, I wish to bring to your attention that the House has no quorum.

Speaker: Hon. Members there being no quorum I direct that the bell be rung for eight minutes or until such time that quorum will have been achieved.

(The bell is rung for 8 minutes and quorum is not achieved as confirmed by the clerk-at-the-table)

Hon. Members, quorum having not been achieved within the eight minutes of ringing the bell, pursuant to Standing Order No. 35 (2) (b), this House stands adjourned to tomorrow, Wednesday, 21st September, 2016 at 9.00 a.m.

(The House rose at 3.36p.m.)