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# REPUBLIC OF KENYA

## NYANDARUA COUNTY ASSEMBLY

### 1<sup>ST</sup> ASSEMBLY- 4<sup>TH</sup> SESSION

#### OFFICIAL REPORT

Thursday 6<sup>th</sup> October, 2016

*The Assembly met at the Assembly Chamber (P.C.E.A Hall) at 9.00 a.m.*

*The Speaker, Hon. Ndegwa Wahome, in the Chair.*

#### PRAYER

#### QUORUM CALL AT THE COMMENCEMENT OF THE SITTING

*(The clerk-at-the table confirms that there is no quorum)*

**Speaker:** There being no quorum, I invoke the provisions of Standing Order 34 and direct that the quorum bell be rung for an initial ten minutes, or until such time, within the ten minutes that quorum will be achieved.

*(The quorum bell rings for 3 minutes and quorum is achieved as confirmed by the clerk- at -the table)*

**Speaker:** Quorum having been achieved, the bell may be disengaged, and we can proceed with the business of the morning session.

First order.

#### MOTIONS

#### REPORT ON GETA COOPERATIVE

**Speaker:** Yes, member for Gathaara and the chairperson of the committee on Trade, Cooperatives and Enterprise Development, Hon. Daniel Kibebo Ruara.

**Hon. Daniel Kibebo Ruara:** Thank you Mr. Speaker, I beg to move that this House does adopt the report of the committee on Trade, Cooperatives and Enterprise Development, on the status of Geta Cooperative Society as a report of this House and the recommendations therein as resolutions of this House.

Mr. Speaker, this report emanated from a statement sought by the Member for Geta, Hon. John Githinji Mwaniki. Allow me to go through the executive summary:

Mr. Speaker Sir, pursuant to Standing Order No. 44(c), Hon. John Githinji (MCA, Geta Ward), sought a statement on Thursday the 24<sup>th</sup> day of March, 2016 regarding Geta Farmers' Cooperative Society. The statement sought was in light of...

*(Hon. Suleiman Kihika rises on a point of order)*

**Speaker:** What is it member for Kanjuiri- ridge?

**Hon. Suleiman Kihika:** Thank you Mr. Speaker, I would like to seek your guidance on whether it is in order for the report to be moved while the member that sought that statement is not in the house.

**Speaker:** Actually the last time I ruled on that matter, I directed that when a report comes to this house, it becomes a report of this house and it has no regard at all to the person that brought the issue. If you remember when I was making the ruling, I said that the member for Geta might not be there on the date when the motion is moved and true to that, he is not here today. If the member for Geta is so interested in this report, he should have written to the Speaker to have the report shelved until a day that he is available. We cannot start speculating on his whereabouts now and the business of this house must proceed. Proceed member for Gathaara.

**Hon. Daniel Kibebo:** Thank you Mr Speaker for that guidance. When we were compiling this report, we had the same problem but now that the report is in the House, it might address similar problems in other cooperative societies in other wards. The members should contribute to this for the purpose of solving those problems.

On page one, there is the background of how the cooperatives started and how it should operate. On page four there is the background of Geta Farmers' Cooperative Society.

On 24<sup>th</sup> March 2016, Hon. Githinji Mwaniki, MCA, Geta Ward, requested for a statement from the Chairperson, Committee on Industrialization, Trade, Cooperatives and Tourism, now the Committee on Trade, Cooperatives, Industrialization and Enterprise Development on the following issues concerning Geta FCS on the veracity of allegations that Geta FCS has been ridden and rocked

with poor management, lack of accountability and transparency. This has led to blatant mismanagement by the leadership of the Society.

The Committee sought submissions from the Board, members of the Society and the CECM for Cooperatives, Industrialization, Trade and Enterprise Development. The Society was registered in the year 1970 with the objective of delivering members' milk, pyrethrum and wool. It fell dormant in the year 1994 and was later revived after a series of meetings culminating to elections being held on the 25<sup>th</sup> of September 2013.

The board members are listed on page four. The first general meeting was allegedly held on the 28<sup>th</sup> May 2014 and the members that were elected on that day are as listed. The minutes of that meeting are annexed to the report.

On the 3<sup>rd</sup> of June 2016, an election was held and Board Members were elected they are also listed in the report. On the committee findings, the committee found out the following.

1. Geta Farmers' Cooperative Society was revived in October 2013.
2. There was an Election Dispute. There is a controversy among some members of the society in respect to their failure to be re-elected as officials in the latest election held in June, 2016.

The first general meeting was held on 28<sup>th</sup> May, 2014 where an election was conducted and seven (7) members were elected to office. The members are listed.

The above mentioned persons held office until June 2016 when elections were conducted during an annual general meeting where James Gathua, Teresiah Wangeci and Wilson Kimani replaced John Gathimba, John Mwai and Onesmus Njuguna.

Various allegations were made against the three ousted members preventing them from being eligible for re-election. Among these were;

- Defaulting on repayment of loans by the former vice chairperson, John Mwai.

- Failure of the former chairman, John Gathimba to clear himself on issues surrounding dividends not paid to members during his tenure and land ownership matters among others.

Mr Speaker without saying much, this was the genesis of the problem;

3. Poor management; Lack of accountability and transparency.

During the meeting held with the board governing Geta FCS on 14<sup>th</sup> May, 2016, the Committee noted that the board displayed sheer ignorance in matters of management of the society pursuant to the Cooperative Societies Act.

Any application made for registration of a society must be accompanied by copies of the proposed by-laws of the Society. The by-laws of a co-operative society, shall, when registered, bind the co-operative society and the members thereof to observe all the provisions of the by-laws. In general, the Act and the Society's by-laws provide the guiding principles of a co-operative society. Section 24 of the Act states that;

Every co-operative society shall keep a copy of this Act and of the rules made thereunder and of its own by-laws and a list of its members (excluding details of nominees and shareholdings) at its registered office and shall keep them open for inspection by any person, free of charge, at all reasonable times during business hours.

4. Expenditure of the society's fund.

Pursuant to the Act, no society shall operate without a budget approved through a general meeting. Since the revival of the Society, the board confirmed that they have never maintained a budget which would otherwise capture the prioritization of the Society's expenditure which ensures allocation of resources to those activities which have greatest benefit to the members of the Society. In this case, monies have been used without approval by the members in a general meeting.

5. Poor record management.

- The Committee was not able to ascertain the bank balances of Geta FCS of Sh. 221,723 and Sh. 1,127 for the Financial Years 2013/ 2014 and 2014/ 2015 respectively from their principal Bankers Tower Sacco Fosa and Aberdare Sacco Fosa since they did not submit their certified bank statements as requested by the Committee in a letter dated 15<sup>th</sup> July 2016.

- According to Geta FCS Annual Reports and Financial Statements as at 2015, the financial position indicates that Non-current assets were at sh. 1,089,869.99 while the current assets are sh.3, 412,114.99. However, the committee could not ascertain this figures because the Geta FCS board did not avail its asset register to the Committee for verification as requested in a letter dated 15<sup>th</sup> July 2016.
6. During the first meeting held with the board, the board informed the Committee that an amount of Kshs. 128,000 was donated by the area member of parliament. The board claimed that the society did not have an account then hence the cash was deposited in the Treasurers personal account which he later withdrew from his account to the society's account. Thirty three (33) milking cans were purchased using the money. No entry was made in the books of accounts regarding the donation, neither was there a board resolution indicating how the decision of purchasing the milking cans was arrived at. The board did not clarify why the Society's monies were transacted via a personal account.
  7. The committee also noted that the number of dormant members in comparison to the active members for the two periods audited in the audited Annual Report and Financial Statement as at 30<sup>th</sup> June 2015 indicated that there was a high withdrawal in Geta FCS membership which spoke volumes on the integrity and transparency of the board members despite having better prices on the purchase of milk from farmers.
  8. Attempts by the Committee to establish whether the Auditor who audited Geta FCS as at 30<sup>th</sup> June, 2015 is a registered Member of the Institute of Certified Public

Accountants of Kenya (ICPAK) failed as his name does not reflect in the Institute's website. The committee therefore has a strong conviction that the Auditor may not be qualified enough given the quality and format of the cooperatives financial statements that were developed by him.

9. The Board of Geta FCS submitted the audited Annual Report and Financial Statements as at June 2016. However, the following were not met in accordance to the Co-operative Societies Act;

- Table of contents
- Management Committee
- Principal Bankers
- The auditor who carried out the audit
- Report of the Management Committee
- Statement of the management Committee responsibilities
- Signatures of the Chairman, Treasurer and the secretary
- Statement of the auditor
- The registered office

Mr Speaker, the rest is self-explanatory and I now want to go the recommendations. The Committee unanimously arrived at the following recommendations;

1. That Geta FCS board does organize in-house trainings which could be customized for their specific needs or organize trainings through benchmarking in other cooperative societies. This will give Geta FCS board the knowledge required to run the Cooperative society.

2. That the County Government does consider recruiting officers who will assist the sub-county cooperatives officers in carrying out their supervisory and advisory roles in cooperatives.
3. That the County Government does develop a policy and curriculum on cooperative training. Such a curriculum should emphasize on corporate governance, strategic business planning, staff and member empowerment on running and management of cooperative societies.
4. That Geta FCS does create the organizations' postal address therefore, avoiding the use of personal contacts whilst conducting the cooperatives' societies business. Postal address is a requirement of all Cooperative societies before they start running their day to day operations.
5. That Geta FCS does employ competent employees to ensure that proper books of accounts are kept with the proper IAS and IFRS disclosures.
6. That Geta FCS board does ensure that NHIF and NSSF deductions are remitted to the relevant bodies in time to avoid fines and penalties which adversely affects the cooperative society finances.
7. That the qualifications of the Auditor who audited Geta FCS financial books for financial year 2014/2015 should be probed. Due diligence should also be done on his knowledge, prowess, independence and expertise as an auditor. The committee feels that his independence was compromised based on the audited Annual Report and Financial Statement as at 30<sup>th</sup> June 2015.

8. That Geta FSC does establish their by-laws as soon as possible since this is what the cooperative society should use to regulate itself as provided in the cooperative society's Act cap 490.
9. That the Accountants of Geta FCS should present the financial books to the Auditor in time to avoid delays in the AGM.
10. That impromptu visits and checks should be done by the supervisory committee on the cooperative society's financial books, the board and employees. This will ensure that they are more alert and careful by keeping updated and accurate records.
11. That the audit on financial statements as at 30<sup>th</sup> June 2015 and 30<sup>th</sup> June 2016 be re-done by an independent auditor who will give the correct and accurate position of Geta FCS with regards to its financial ability.
12. That Geta FCS should give its members at least a fifteen day written notice before convening its Annual General Meeting.
13. That members of Geta FCS should be sensitized and empowered through trainings. This will give the members knowledge which will enable them participate actively in matters pertaining to the society which will improve its operations and productivity.
14. That the employees be appraised where the performance of employees are scrutinized and evaluated with the objective of realizing their strength and weaknesses for future and continuous improvement.
15. Given that the attendance register for the recent AGM was found to be inaccurate with some members' names duplicated, the list should be

authenticated by the County Executive and if gross anomalies are found, the election should be nullified and fresh elections to be undertaken.

16. The County Executive's Department for Cooperatives should probe further, the eligibility of candidates for board positions in the last AGM, given that some members elected were in the last board that failed to produce audited accounts within the prescribed timelines in line with Section 25 (11) of the Act. If no written reason for delay was given to the Commissioner of Cooperatives and extension granted, then nullification of the election should be considered.

17. That the department of Cooperative should enhance oversight of Geta FCS and other cooperatives in the society to ensure that all the primary documents are in place and are up to date to minimize cases of concealing or falsifying information on the operations and accounts of the Cooperatives.

Mr Speaker, you can see the annexed documents. Those are the issues we found in Geta but the major one is management. Without proper book keeping and auditing, we cannot be able to salvage this Sacco. Thank you Mr Speaker, and I now call upon Hon. Jane Mwathe to second.

**Speaker:** Yes county member from Wanjohi Hon. Jane Mwathe.

**Hon. Jane Mwathe:** Thank you Mr Speaker, I rise to second the motion on the report. We can say that that Sacco is poorly managed. For instance, we told them that we would be going there to hear even from the members of the society and get the genesis of the problems but we had to hold the meeting outside because the hall was locked by some of the members. We met very few members because that morning some of those that had taken their milk there had been told that there was no meeting.

We found out that there is poor record keeping and the committee members that we found were not in good terms. We can also blame the cooperatives officer in that area because he does not guide the members on what they are supposed to do.

We asked the CECM for trade and cooperatives to send her officers to that cooperative so that they can educate the people. She should also look at others such as Wanjohi cooperative society which is in crisis. They went to Cooperative Bank and took an overdraft which was converted to a loan. The members do not know how this was done. The executive did not seek advice and consent before taking the overdraft.

We know well that in Nyandarua county people depend on agricultural produce. If these cooperative societies are not guided they will go down. It is important to note that in Geta during the elections, members were locked out because of some issues. *Mundu ndahithagio mburi atari nacio*<sup>1</sup>. So one who has no land, lives at their father's home or has one or no cow cannot be elected to be a leader?

I urge the CECM for Trade, Cooperatives and Enterprise Development to come out of the office and visit the cooperative societies to offer them advice. I beg to second. Thank you Mr. Speaker.

*(Question proposed)*

**Speaker:** Yes Member for Wanjohi, Hon. Mumba Gichini.

**Hon. Mumba Gichini:** Thank you Mr. Speaker. I rise to support the motion. The recommendations of the committee are very good. Poor management is the major cause of the collapse of cooperatives. Poor management and leadership style led to the collapse of Wanjohi Cooperative Society. The people who were elected to lead Wanjohi Cooperative Society were youth without sufficient training and, remember they were supposed to handle a society with about six hundred people.

Limited number of officers is another cause of the collapse. Kipipiri, for example, has only one officer representing the cooperative society there. The county government should appoint cooperative societies' supervisors. The county government is doing an injustice by not having a policy governing supervision and running of cooperative societies. The Trade, Cooperatives and Enterprise Development CECM should develop a policy governing the running of the cooperatives. With those few remarks, I support the motion.

**Speaker:** Yes Member for Rurii, Hon. Wahome Kamoche.

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<sup>1</sup> You cannot entrust your goats to one who has none.

**Hon. Wahome Kamoche:** Thank you Mr. Speaker. I rise to support the motion. There was once a massive collapse of the cooperative societies throughout the county. There is a long and bureaucratic process of re-registering a cooperative society. Ol'kalou Cooperative Society collapsed and about Kshs 45 million was lost. Today, the said society's property is being sold, in fact two tractors have already been sold. Scrambling for positions in the leadership of cooperative societies is also a challenge and it needs to be addressed. The Trade, Cooperatives and Enterprise Development CECM promised this Assembly during her vetting that she would take only one year to revive the cooperative societies within the county.

Since we came to this Assembly we have received only one regulation from the Department: that is the regulation on Kshs. 12 million Trade Fund. Additionally, the Department has never drafted a policy such that as the Member for Rurii, I could say that the cooperative societies are guided by this or that policy. So I would urge this house, through the Chairman of the committee that we have an inventory of the societies that are visible so that we, the members of this assembly, can bring a report of the list of the societies that we have. This will enable us to know the cooperatives that are registered with the ministry. This way, we shall be able to tell what the exact problems are in the cooperatives because cooperative societies are the backbone of the people. Right now, we are only relying on the Ol'kalou Dairy which is a cooperative of this County. We are also relying on Muki Sacco in North Kinangop. Those are the only two societies that we can mention in this County Mr speaker.

Right now, most of the cooperatives are under fire. People are running to Ol'kalou Dairy and others to Muki Farmer's Cooperative Society because they believe that is where they are being taken care of. If you go out there, you can ten cooperative societies which cannot function. The only thing that we are requesting is that the CEC in charge of cooperatives and the director of cooperatives would give us, through the chair, an inventory report of what we have.

For a month now, we have had Silanga cooperative society. It occupies land of about 30 acres which it has allocated to Silanga Secondary and Silanga Primary School. It has now been left with 10 acres and the title deed had been with somebody in his pocket claiming that the Society owed him some money. He could not give out the title deed and yet he is the Chairman. So, what I did as the MCA of the area, I had to pay the fifteen thousand shillings because the person had stayed with the title for 30 years and nobody had had the fifteen thousand shillings to claim back the title. After that, we agreed that the land be allocated to dispensary and we agreed on where all that could be done. Later, the ministry of cooperatives ran there and put caution.

From that point, the wrestling has been there all through with people arguing that the land cannot be transferred while others want plots to be sold because there are no bona fide office bearers. Mr Speaker, the issue of cooperatives needs to be addressed fully in this House. That's where the electorate can get a place to put a coolant or a small dispensary because there is enough land. There is a borehole but somebody cannot get water because somebody is 'owning' the place. The three people that form the executive; the chairman, the treasurer and the secretary stand there and hold an election while another parallel committee is put in place and a management crisis arises.

The law says that all matters regarding to cooperatives shall be referred to the cooperatives tribunal which is not practical today. The tribunal is located at 10<sup>th</sup> floor of the Reinsurance Plaza in Nairobi and it is no longer existent since it has been scrapped. When somebody runs and says that the matter be referred to the tribunal, the matter takes ages.

The issue needs to be addressed and it can only be addressed through the Committee of Industrialization together with the CEC and us, the MCAs. We should bring an inventory of the cooperatives. We in Rurii have these cooperatives and we should say what the policies are and what their work is. That is the only thing Mr. speaker that can save Nyandarua because agriculture and cooperatives are what we are relying on as well as the Ministry of Cooperatives. Thank you Mr. Speaker and I support the report.

**Speaker:** Very well. I now call upon the mover.

**Hon Daniel Kibibo:** Thank you Mr. Speaker for giving me time to table this report. I think because this is a devolved function and it is just young, we should congratulate people for having trust in the cooperatives. We have tried to revive most of the cooperatives and we have supplied them with coolers. On the side of the magnitude, although they have not been constructed as per what we needed, we have still done some work.

There is still some problem that is critical and which is the issue of corrupt officers. If you lack trained officers who can go and guide those cooperatives, the movement will have a slow progress and possibly the cooperatives will be operated without any guidelines. This is the most important area that we need to note that has a problem. In all the other things, the combined movement in Nyandarua has gone a step forward. If we are given time, we can even go far. I congratulate the office of the Speaker and the office of the CECM for their cooperation that helped us come up with conclusions.

Thank you, Mr. Speaker, I beg to move.

*(Question put and agreed to)*

**Speaker:** The report and the recommendations, as well as the resolutions will be considered as resolutions of this House. The requisite communications will be done to the executive and I believe that there will be a follow-up by the committee chairperson. If you look at the recommendations in this report and the challenges that are facing Geta Cooperative Society, you will see that they are the same challenges facing every other society within this country and if this report is implemented to the letter and spirit, we shall have cured all the problems bedevilling the societies within this County.

Trying to develop this county without first considering the survival of the Cooperative Societies might be merely a mirage. Most of us are where we are because we had cooperative societies that were effective through which our school fees were paid and through which our college fees were paid. If it were not for those cooperative societies, the dynamics of our lives today would be very different. Therefore, we are going to pursue it together with the Committee on Industrialization to see that there is implementation on the resolutions herein.

Next order.

### ADJOURNMENT

**Speaker:** The business for the session having been exhausted honourable members, and today being a Wednesday, the House adjourns to later today at 2.30 p.m.

*(The House rose at 10.25 a.m.)*