

REPUBLIC OF KENYA



BOMET COUNTY

BOMET COUNTY ASSEMBLY

FIRST ASSEMBLY-FOURTH SESSION

THE JOINT COMMITTEE ON URBAN PLANNING, LAND AND HOUSING &  
ADMINISTRATION, PEACE, JUSTICE AND LEGAL AFFAIRS

REPORT ON THE PETITION TO THE COUNTY ASSEMBLY BY ORWASA  
NGENO ON SIGOR FARMERS' COOPERATIVE SOCIETY

*Tabled on  
13th/07/2016*

May 2016

*Korirah  
22/6/2016*

*29th  
July to be  
discussed*



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## **PREFACE**

Mr. Speaker Sir, Pursuant to Standing Order 205 of the County Assembly Standing Orders, the joint committee on Urban Planning, Land and Housing & Administration, Peace, Justice and Legal Affairs was tasked to look into the petition presented by Orwasa Ngeno which was read on the 3<sup>rd</sup> February 2016. The Committee according to the Standing Orders had a period of not more than sixty days to respond to the Petitioners and lay the report on the table of the Assembly.

Mr. Speaker Sir, Section 15 of the County Governments Act 2012 provides that a person has a right to petition a County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation. The Committee therefore conducted an intensive research on the matter and invited the Chairman, treasury and the secretary of Sigor Dairy Farmers Cooperative Society to one of its meetings to further shed light on the issue and thereafter site visit to the cooperative was conducted to ascertain and collect information on the ground pertaining the petition, the committee also invited the people adversely mentioned in the petition including the CEC Agribusiness, Livestock, Marketing and Cooperative, Mr. Kerich and the parallel committee. The Committee then finally made its findings and recommendations.

## **COMMITTEE MEMBERSHIP**

Mr. Speaker Sir,

The joint committee on Urban Planning, Land and Housing & Administration, Peace, Justice and Legal Affairs Committee is comprised of the following Honorable Members:

Hon. Robert Serbai	Chairperson
Hon. Robert Bett	Vice chairperson
Hon. Stephen Changmorik	Member
Hon. Patrick Chepkwony	Member
Hon. Sammy Chelule	Member
Hon. Josphine Rotich	Member
Hon Nancy Chepkirui	Member
Hon. John Molel	Member
Hon Beatrice Chebomui	Member
Hon Leonard Kirui	Member
Hon David Rotich Big Five	Member
Hon Rose Boiyon	Member

## **MANDATE OF THE COMMITTEE**

Mr. Speaker Sir,

The joint committee joint committee on Urban Planning, Land and Housing & Administration, Peace, Justice and Legal Affairs derives its mandate from the

second schedule of the standing orders and Standing order 193 which provides the functions of a Sectoral Committee shall be to-

- (1)(a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- (c) Study and review all county legislation referred to it;
- (d) Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (e) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 188(*Committee on Appointments*); and
- (g) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation

**APPRECIATION**

Mr.Speaker,

The Committee wishes to thank the Office of the Speaker and the Office of the Clerk for the support accorded to it during report writing and execution of the committee's mandate.

As the Chairperson, I also take this opportunity to thank all the members of the committee for their commitment during the deliberations and writing of this report. It is therefore my pleasant duty and privilege, on behalf of the Joint Committee to table this report on the petition of the Sigor Farmers' Co-operative Society for consideration.

SIGNED..........DATE. 28/04/2016.....

**HON.ROBERT SERBAI**

**CHAIRPERSON**

We the joint committee on Urban Planning, Land and Housing & Administration, Peace, Justice and Legal Affairs do append our signatures against our names to this report to affirm the correctness of the contents and support for the report.

**Signature**

- 1. Hon. Robert Bett.....
- 2. Hon. Stephen Changmorik.....
- 3. Hon. Patrick Chepkwony.....
- 4. Hon. Sammy Chelule.....
- 5. Hon. Josphine Rotich.....
- 6. Hon Leonard Kirui.....
- 7. Hon David Rotich Big Five.....
- 8. Hon Rose Boiyon.....
- 9. Hon Nancy Chepkirui.....
- 10. Hon. John Molel.....
- 11. Hon Beatrice Chebomui.....

**April, 2016**

## **BACKGROUND**

### **Petition by the Mr. Orwasa Ngeno on behalf of Sigor Farmers' Cooperative Society.**

At the outset, it has to be pointed out that the members of the public have a right to petition the County Assembly. **Section 15 (1)** of the County Governments Act, provides that a person has a right to petition a county Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.

On 3<sup>rd</sup> December 2015, the Office of the Clerk received a petition from Mr. Orwasa Ngeno on behalf of Sigor Farmers' Cooperative Society. The Joint Committee formally received the petition of the Sigor Farmers' Cooperative Society 2015.

In dealing with the matter, the committee held a total of eleven sittings to deliberate on the matter. The committee was able to engage the Petitioner, the relevant CEC and all other parties it deemed fit to engage. The committee also undertook a site visit to Sigor Market Centre where the Sigor Farmers Cooperative Society is based.

Upon deliberating in the said sittings and interrogating the documents submitted to it, the committee came up with a report in response to the petition as provided for under the Standing Order 201 (2)



## **INTRODUCTION AND BACKGROUND**

### **Background**

Following the tabling of the petition, the Joint Committee formally received the petition of the Sigor Farmers' Cooperative Society that was presented through its Chairman Mr. Stanley Orwasa Ngeno National Identification Number 0324161.

In his petition, Mr. Stanley Orwasa Ngeno on behalf of the Sigor Farmers' Cooperative Society alleged that;

1. The Bomet County Government has taken irregularly and unlawfully plots owned by Sigor farmers' cooperative society by building a cooler on the land without consulting the members of the cooperative who have the title on the land
2. The County Government through its officials have duped the society and have handed over their documents to the Sub-county cooperative officer Mr. Kerich for auditing on 10<sup>th</sup> of April 2014 and books have since been withheld

### **Prayers of the petitioner**

The prayers raised in the petition specifically were that the County Assembly takes necessary action to ensure;

- a) That Sigor Farmers Cooperative Society get back its document including certificate of registration from the Bomet County Government officials that have withheld them

- b) That conduct investigation as to how the cooler project was undertaken on society's land to the exclusion of the members of the society and whether county money was misappropriated
- c) That the County Government imposed a parallel committee to run the project with their exclusion
- d) That how much funds was expensed by the County Government on the construction of the cooler plant

### **The Legal Framework**

The legal framework for petitioning public bodies, issues to do with management of cooperative societies exist in Kenya as follows;

#### **Petitions**

The right of citizens to petition public authorities is enshrined in the Constitution, 2010. **Article 37** provides that;

*“Every person has a right, peaceably and unarmed, to assemble, to demonstrate, to picket and to present petitions to public authorities”*

The County Governments Act under **Section 88** makes provision for citizens' right to petition and challenge. The said section provides that;

- (1) Citizens have a right to petition the county government on any matter under the responsibility of the county government*
- (2) Citizens petitions shall be made in writing to the county government*
- (3) County legislation shall give further effect to section 88 (1).*

The Act in **Section 89** further obligates the county government authorities, agencies and agents to respond expeditiously to petitions and challenges from citizens.

Further, Section 15 (1), County Governments Act, provides that a person has a right to petition a County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.

The **Standing Orders 201(1)** provides that every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Sectoral Committee.

**Standing Order 201(2)** further provides that whenever a Petition is committed to a Sectoral Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the County Assembly and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty Minutes.

### **Management of Cooperative Societies**

**The Cooperative Societies Act, CAP 490** provides for the legal framework for the management of co-operatives in Kenya.

Section 12 of the Act provides that upon registration, every society shall become a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold movable and immovable property of every description, to enter into contracts, to sue and

be sued and to do all things necessary for the purpose of, or in accordance with, its by-laws.

Section 58 provides for the Inquiry by Commissioner and that;

(1) The Commissioner may, of his own accord, and shall on the direction of the Minister, as the case may be, or on the application of not less than one-third of the members present and voting at a meeting of the society which has been duly advertised, hold an inquiry or direct any person authorized by him in writing to hold an inquiry, into the by-laws, working and financial conditions of any co-operative society.

(2) All officers and members of the co-operative society shall produce such cash, accounts, books, documents and securities of the society, and furnish such information in regard to the affairs of the society, as the person holding the inquiry may require.

(3) The Commissioner shall report the findings of his inquiry at a general meeting of the society and shall give directions for the implementation of the recommendations of the inquiry report.

(4) Where the Commissioner is satisfied, after due inquiry, that the Committee of a co-operative society is not performing its duties properly, he may—

(a) Dissolve the Committee; and

(b) Cause to be appointed an interim Committee consisting of not more than five members from among the members of the society for a period not exceeding ninety days.

(5) A person who contravenes subsection (2) shall be guilty of an offence and

Shall be liable to a fine not exceeding two thousand shillings for each day during which the offence continues.

It is noteworthy however that schedule four of the Constitution of Kenya 2010 lists the regulation of Co-operatives as a county function. However, Bomet County is yet to develop a legal framework for the regulation of Co-operatives in the County.

## **SUBMISSIONS ON THE PETITION**

### **Submissions**

In addressing itself to the issues raised by the petitioner, the committee resolved to invite the following;

1. Mr. Ngeno Stanley Orwasa, Chairperson Sigor Farmers' Cooperative Society
2. Mr Kirui Alex, CEC Agribusiness and Cooperatives.
3. Patricia Lasoi, CEC, Lands, Housing and Urban Development
4. Mr Kerich Cooperative Officer Chepalungu sub county
5. The parallel committee

The following then appeared and submitted as follows;

### **Submission by Mr. Ngeno Stanley Orwasa, Chairperson Sigor Farmers Cooperative Society**

The petitioner appeared before the Committee on 18<sup>th</sup> February 2016 upon appearing before the committee, the petitioner informed the committee as follows;

## **Sigor Farmers Cooperatives Society**

That Sigor Farmers Cooperatives Society Limited is duly registered in the Register of Cooperative Society as No. 1755 of 1967

### **Ownership of land where the project of milk cooling plant has been undertaken**

That Sigor Farmers Cooperative Society Limited was allocated plot No. 60 as Sigor Market Centre by the County Council of Kipsigis vide a letter dated 29<sup>th</sup> May, 1981. The plot was allocated with a condition that buildings be erected within three months.

He further submitted that the society has been paying rates as a ratable owner.

### **Submission by Mr Kirui Alex, CEC Agribusiness and Cooperatives**

The Committee, through the Office of the Clerk of the Assembly, vide letter dated 8<sup>th</sup> march 2015 ref: BCA /GOV/AGB/13/10/22/16 invited the CEC for Agribusiness and Cooperatives to appear before the committee on 15<sup>th</sup> march 2016 to shed light on some of the issues raised in the petition.

### **Documents withheld by the County Officials**

That the certificate held by the Sub-county administrator belongs to the Sigor Dairy Farmers Cooperative Society (Certificate Number 306944 dated 23/08/2012) which was issued for the purpose of bank account opening. The committee has a membership of seven.

## **Ownership of land where the project of milk cooling plant has been undertaken**

That the purported land which the cooling plant has been built is a PI Land registered as Kericho/Sigor/1360 under the County Council of Kipsigis and that the current user is indicated as for Sigor Chiefs Camp.

He further submitted that subdivision of land No 1360 has not been done as per the information from the land Survey waiting for the consent from the Transition Authority for them to start the subdivision of the said parcel.

## **Allegation that the County Government imposed parallel committee to run the project with their exclusion**

That currently there is no dispute in the affairs of the ongoing projects since it is an independent entity by the virtue of different certificates as follows; Sigor Farmers Cooperatives Society Limited No 1755 and Sigor Dairy Farmers Community Project certificate no BMT/332/2012 hence there is no parallel committee

## **The amount of money spent by the County Government on construction of cooling plant**

The Sigor Dairy community project has been funded to a tune of Ksh 3.1 Million and it is on its completion stage, the remaining works being terrazzo, septic tank and electricity connections.

**Submission by Patricia Lasoi, CEC Lands, Housing and Urban Development**  
**Ownership of land where the project of milk cooling plant has been under-**  
**taken**

That Sigor Dairy Cooperative Society is in a PI reserved for chief camp Title  
No Kericho/Sigor/1359

**Submission by Mr. Kerich the Sub-county cooperative Officer      Chepalungu**  
**constituency**

1. He took the documents in 2009 from the society because they wanted to revive the dormant cooperatives and in the flagship was Itembe, Merigi and Sigor farmers' cooperative society. The society was to be revived by C.D.F and the IFAD(N.G.O)
2. The society was making a loss of 9,000 by then the return on investment was 27,000 and yet the salaries of the society was 36,000
3. The documents of the society has been withheld since 2014 because the auditor has not been facilitated
4. He Mr. Kerich is not aware of the documents taken from the society and was only doing a follow up of the letter written by Mrs. Loice N. Ratemo Coordinator cooperatives. The letter was written on 28<sup>th</sup> March 2014 and was requesting documents as per cooperative societies Act Cap 490 of the laws of Kenya for audit
5. The legal basis of establishing an interim committee was from the fact that Sigor is a potential area for Agribusiness and Mr. Orwasa Ngeno committee were not delivering and thus the opinion leaders and com-



munity had no option but to choose the parallel committee to take over

6. There were funds misappropriated by Orwasa committee that they had requested for fund to construct road to the cooler and gate but instead they verbally agreed to pay farmers using the funds thus raising audit queries.

**Submission by The parallel Committee**

- 1) They only stand for the construction of the cooler and immediately after completion they will hand over the project to the community
- 2) The committee came into being when the C.D.A and the Sub-county administrator Mr. Tonui facilitated the nomination of the committee from the nine Sub- location as follows;
  - a) Samwel koskei –Reberwet
  - b) Henry Ngetich –Lugumek
  - c) Lily Langat –Chepkosa
  - d) Philip Langat –Kabsabul
  - e) Isack Kobei –Sugurmega
  - f) Josea Korir-Nyangores
  - g) Erick Langat –Lelachtich
  - h) Jonah Tonui –Sigor

- 3) The amount so far spend in the construction of the cooler is 3.1 million shillings and recently they received 700,000 for the completion and setting up of pavement
- 4) It is the same members of public that own Sigor Dairy Farmers Cooperative Society and Sigor Multipurpose Cooperative Society cooler

### **Issues for determination**

Upon interrogation of the petition and the submissions the committee observed that the issues to be determined included the following;

1. Legal status of the entities involved.
2. Ownership of the land under which the Sigor Cooperative Society occupies
3. Whether the County Official's continued retention of documents of Sigor Cooperative Society is justified.
4. Whether the audits undertaken by county officials were legal
5. Funding of projects by the County Government
6. The basis for operating parallel Bank accounts by the parallel committee.
7. The ultimate control and administration of the cooling plant

## **LEGAL STATUS OF ENTITIES INVOLVED**

In the course of its deliberations about five entities were repeatedly being mentioned sometimes inter-changeably both by witnesses to the committee and in the documents tendered to the committee. It was therefore important for the committee to gain clarity by distinguishing the entities and identifying their relationship to the subject matter in issue. There are five entities are

- i. Sigor Farmers Co-operative Society Limited
- ii. Sigor Dairy Farmers Cooperative Society
- iii. Sigor Dairy Farmers Community Project
- iv. Sigor Financial Services Association
- v. Sigor Ward Multipurpose Co-operative Society Limited

### **Sigor Farmers Co-operative Society Limited**

From the documents tendered before the committee and after reviewing the submissions made by the witnesses the committee came to a conclusion that Sigor Farmers Co-operative Limited is a co-operative society and is registered as such with the registrar of co-operatives. Moreover, the petitioner did submit to the committee a copy of the registration certificate of the society.

### **Sigor Dairy Farmers Co-operative Society Limited**

Sigor Dairy Farmers Cooperative was the most confusing entity to the committee as the entity came up severally in both oral and written submissions to the committee. In many cases the committee observed that Sigor Dairy

Farmers Co-operative Society was used interchangeably with Sigor Farmers Co-operative society to refer to the same entity. Although this mix up was not evident during the oral presentations it became more pronounced when the committee reviewed the documents tendered before it. Given that the Committee had a fixed schedule, the committee did not have sufficient time to recall witnesses to clarify as to firm identity of Sigor Dairy Farmers Co-operative Society. It was therefore resolved that the committee secretariats carry out further investigations on the same and brief the committee accordingly.

The committee after some investigations and based on information available to it concluded that Sigor Dairy Farmers Society Limited was not a registered entity. It is the observation of the committee that any references to Sigor Dairy Farmers were perhaps as result of the original membership of the society which was predominantly dairy farmers. Consequently any references to Sigor Dairy Farmers Cooperative Society Limited were to be taken to mean Sigor Farmers Cooperative Society Limited.

### **Sigor Dairy Farmers Community Project**

The petitioner had tendered in his submissions the registration for Sigor Dairy Farmers Community Project that was registered with the Ministry of Gender, Children and Social Development as a self-help group issued on 23rd August, 2012. The Committee was however interested in the relationship between Sigor Dairy Farmers Community Project and the Sigor Farmers Cooperative Society Ltd in whose behalf the petitioner is petitioning.

During the course of the committee's deliberations the committee was made aware of a previous intention of the Constituency Development Fund the Co-operative. The co-operative, due to what was considered red tape in the funding of operatives under CDF, decided to form a separate entity in the form of a self help group for the sole purpose of securing funding by CDF. The membership of the self help group and its leadership was identical to that of Sigor Farmers Cooperative Society.

### **Sigor Financial Services Association**

The committee due to limited time constraints could not independently and firmly confirm the legal identity of sign farmers' financial services association. However, from what the committee could gather Sigor Financial Services Association was formed by the membership of Sigor Farmers Cooperative Society. The idea underlying its formation to enable members of the cooperative access subsidized loan facilities. The FSA was subsequently registered as such with the registrar of co-operatives.

Furthermore the committee could also gather that the FSA had elected a different committee to lead it and that it had separate offices within the Society's land. However, it also came to the knowledge of the committee that the offices are currently occupied by the parallel committee.

### **Sigor Ward Multipurpose Co-operative Society Limited**

The committee during its deliberation was unable to get confirmation as to the current status of Sigor Ward Multi-purpose Co-operative s Society. It is noted that the Sigor Ward Multi-purpose Cooperative Society is subject to the Co-operatives Act and as such its returns are available for public scrutiny.

However on a balance of probabilities, noting that the county has been funding such societies, it can be presumed that the county exercised due diligence to ensure that such a society is compliant to the prevailing regulations. In any case, however, and because the existence of the society is in the public domain the committee was satisfied that the Sigor Ward Multi-purpose was a completely separate entity from Sigor Farmers Co-operative whether duly registered body or not.

### **OWNERSHIP OF THE LAND UNDER WHICH THE SIGOR COOPERATIVE SOCIETY OCCUPIES**

From the documents submitted by the petitioner regarding the land on which the cooling plant that is the subject matter of the present petition sits, there was inconsistency as to where the land was situate. Among the documents submitted were a land allotment letter of 29<sup>th</sup> May 1981 allocating plot no 60 to Sigor Cooperative Society. This allocation was made under the Kipsigis County Council that was later succeeded by the Bomet Municipal Council.

Another document submitted was an allocation of plot no 60 to Sigor Co-operative society Ltd in 2012 by the now defunct Bomet Municipal Council. Additionally the petitioner submitted a demand notice for rates by the County Government, indicating that Sigor Co-operative Society was the ratable owner of the parcel of land referred to as plot No 60.

The petitioner also submitted a land search dated 28th March 2016, that indicated that the land was designated as the Chief's camp. Another was

submitted by the CEC at the time responsible for land on a different land number that showed that the land was as a chief camp.

During deliberations on the matter, the committee reached the understanding that land and public land for that matter was in the eighties registered under the name of the local administrator, in this case the chief. The idea was that land would be later allocated to individuals.

The matter of land ownership was the subject of much consideration and the committee felt that it needed more time to make a conclusive determination. Nonetheless, based on the fact that Mr. Orwasa readily submitted documents to the effect that they were allocated the land and the fact that they had built on said land and majorly on the strength of the letter of demand on rates by the county government, the committee concluded that the land Sigor Farmers Co-operative Society were the presumptive owners of the land on which the cooling plant was situate.

#### **WHETHER THE COUNTY OFFICIALS CONTINUED RETENTION OF DOCUMENTS OF SIGOR COOPERATIVE SOCIETY IS JUSTIFIED.**

One of the petitioner's founding claims was that officers of the county had unduly retained Sigor Farmers Co-operative Society's books in the name of carrying out an audit. It was the petitioners submission that the books were taken by the Sub-county administrator and that the petitioner had made numerous efforts to know the status of the audit so that he could have the society's books returned to him.

When Mr. Kerich appeared before committee he indeed confirmed that the society's books had been taken by county officials for the purpose of

carrying out audits. In support of this, Mr. Kerich tendered a letter authored by one Loice Ratemo, indicating that the society needed to be audited. In the letter, it was noted, was authored in the year 2014.

It is the committee's observation that the letter by Mrs. Loice Ratemo was not in fact in support of the retention of books by county officials but it was a communication to the effect that the county should not fund Sigor Farmers Co-operative Society as it was due for auditing. The committee is therefore concerned how the county officials particularly Mr. Kerich interpreted the letter differently. However most concerning is where Mr. Kerich and other county officials acquired the mandate to audit the co-operative society.

It is noted though that prior the formation of the county government Mr. Kerich used to work under the national government. The Committee could not however establish his true status of employee in relation to the commissioner of co-operatives. However it was clear that he was an employee of the county government of Bomet. Nonetheless, the law as currently formulated in the Co-operatives Act CAP 490 of the laws of Kenya is clear as whom the mandate to audit co-operatives is conferred upon.

Section 60 of the co-operatives Act gives the mandate to audit co-operatives on the commissioner of co-operatives, the results of which are to be communicated to the membership of the society during the annual general meeting. The committee also sought advise on the duration of audits and was reliably informed that audits on co-operatives usually take 15-30 days.



The retention of Sigor Farmers Co-operative Society by persons who in the committees view have no legal mandate whatsoever to audit society's books is in the committees view unacceptable. Moreover, the fact that the books of Sigor Farmers Co-operative have been retained Sigor Farmers Co-operative Society's books for almost two years can only impute malice and bad faith on the persons responsible.

### **WHETHER THE AUDITS UNDERTAKEN BY COUNTY OFFICIALS WERE LEGAL**

Having come to a conclusion that Mr. Kerich and company did not have the mandate to audit Sigor Farmers Cooperative Society's limited books, the committee also concluded that the purported audit by county officials unlawful. The officers were not authorised to do any audits by the commissioner of co-operatives. The committee therefore views these actions by Mr. Kerich and company as a naked attempt by county officers to irregularly arrogate themselves power of the commissioner of co-operatives.

### **FUNDING OF PROJECTS BY THE COUNTY GOVERNMENT**

It is undisputed that the cooling plant that is the subject matter of the petition is being constructed solely on funds advanced by the County Government of Bomet. The question that arose before the committee was the legal basis for the funding. The committee sought legal advise from the Assembly's legal department and advice was rendered to the effect that county funding of co-operative projects were based on shaky ground. Firstly, the county did not have any legal and regulatory framework for such funding. As a result such county funding is selective and can be termed

as arbitrary. Secondly the controller of budget has repeatedly in questioned in her quarterly reports concerning Bomet County the manner in which the county was disbursing public funds to non-county entities without legal foundation.

It was alleged by the petitioner that the cooling plant has cost almost Ksh. 3.1 million in its construction. However based on a visit to the site, the structure the committee saw at a glance could not have been said to cost the alleged amount. Another allegation was that cheques drawn from public were being issued to individual and no accounting of the same was being done.

The committee found the issue of funding weighty and carried the risk of diverting the committees attention to matters that were outside the purview of the instant petition. It was therefore resolved that the issue be referred to the committee on Public Accounts and Investment for further scrutiny.

## **THE BASIS FOR OPERATING PARALLEL BANK ACCOUNTS BY THE PARALLEL COMMITTEE**

The committee was cautious not to delve into the substantive issue of county funding as it had resolved to defer the issue to the appropriate assembly committee. This notwithstanding this, there was enough evidence to indicate that the county was funding the construction of a cooling plant through a parallel committee. This committee was also known as a project committee.

Although when the so called project committee appeared before this committee they indicated that their mandate was limited to the

construction and completion of the cooling plant after which the same would be handed over.

However there was more than meets the eye on the issue of funding, the fact that cheques were being issued to leaders of this parallel committee indicated that they had to have a bank account for the money to be banked into. Naturally the process of opening group account in commercial banks in Kenya require that the group be registered in one way or the other. More particularly a group usually requires some form of legal identity and documents to indicate their modus operandi.

Due to time constraints, the committee was unable to determine how the parallel committee opened the account. Nevertheless allegations lingered particularly from the petitioner that the parallel committee could have been established in conjunction with Sigor Ward Multipurpose Co-operative Society. This question however can be best answered by the PAC/PIC committees of the House.

## **THE ULTIMATE CONTROL AND ADMINISTRATION OF THE COOLING PLANT**

As indicated above the project committee overseeing the construction of the cooling submitted that once the plant is completed, the project committee will fold and the plant will be handed over. However it was not clear to whom the project would be handed over to.

A considered view of the petition would seem to suggest that the return of the cooling plant to Sigor Farmers Co-operative is a fundamental prayer. Based on the facts on record and the submission made before the committee

it was evident that the cooling plant was the conceptualised by Sigor Farmers Cooperative society which intact saw to it that the drawing and bill of quantities were made. Also as has been discussed the land on which the plant sits is owned by the Sigor Farmers Co-operative until the contrary is proven. As such the project should be handed over to the Sigor Farmers Co-operative Society.

## **COMMITTEE'S FINDINGS AND RECOMMENDATION**

Upon interrogating and considering all submissions and relevant documents concerning the petition, the committee made the following recommendations;

- a. County Officials including Mr. Clement Chirchir and Mr. Kerich acted unlawfully in relating the books for of Sigor Co-operative Society. The books of Sigor Farmers Co-operative society should therefore be immediately handed over to officers representing the commissioner of co-operatives for purposes of auditing.
- b. The audit of Sigor Farmers Co-operative Society can only be done by national officials as the law only gives such mandate to the commissioner of co-operatives. As such, representatives of the commissioner of cooperatives in Bomet, once in receipt of the books of Sigor Farmers Co-operative Society are urged to complete the audit within known audit timelines of 15-30 days and return documents of the society to pave way for the long overdue Annual General Meeting and subsequent general election.

- c. That the County develops a legal framework for funding co-operatives as the current funding is on precarious legal ground.
- d. That Public accounts committee/public investment committee to investigate the usage of funds in the construction of Sigor Dairy Farmers Community project
- e. That the cooling once complete be handed over to Sigor Dairy Farmers Cooperative Society

## **CONCLUSION**

Mr. Speaker sir,

The prayers in the petition were able to guide the committee to analyze, make observation and recommendation on the way forward on areas under contest on the petition No 9 of 2015

The committee hereby present the report before the house for consideration and hopes that the petitioners four prayers have been answered.