

MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Thursday, 3rd September, 2015**

The House met at 2.36 p.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****Hon. Speaker:** Good afternoon Hon. Members. Let us proceed Clerk.**PETITION****DEMARICATION OF KITANGANI MARKET**

Majority Leader (Hon. Mwonga): Mr. Speaker, Sir, pursuant to Standing Order 194 (b), I beg to lay the following petition on the floor of the House today Tuesday, 4th August, 2015, (??) a petition on demarcation of Kitangani market which has interfered with private land. Thank you, Mr. Speaker.

Hon. Speaker: Thank you, petition laid and referred to the Committee on planning. The report will be brought back to the house in the next seven days. Proceed.

NOTICES OF MOTIONS**SAND HARVESTING BAN IN SEVEN WARDS**

Hon. Kyalo Kyuli: Thank you Mr. Speaker. I wish to give notice of the following motion; that Mr. Speaker, this house discusses and approves banning of sand harvesting in the following wards; Wamunyu, Katangi, Ikombe, Mbiuni, Kivaa, Masii and Kola. Thank you, Mr. Speaker.

Hon. Speaker: Thank you, paper laid. Proceed, Clerk.

ESTABLISHMENT OF TWO BUSINESS DEVELOPMENT CENTRES IN 2016/17

Hon. Veronicah Mbithe: Thank you Mr. Speaker, Sir. Mr. Speaker, Sir, I wish to give notice of the following motion, that this Hon. House discusses and approves establishment of two Business Development Centres in Machakos County in the next Financial year. Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you. Notice issued. Proceed.

STATEMENT
DELAYED JULY 2015 SALARY FOR MEDICAL STAFF

Hon. Cecilia Sereka: Thank you Mr. Speaker, Sir. Mr. Speaker, Sir, I stand understanding order number 41 (2) (c) to intervene as pertains a statement sort by Hon. Sammy Nduva on 1st September, 2015 and which the Hon. Speaker directed to be responded on the 2nd September, 2015. Mr. Speaker, Sir, he hon. member wanted to know a response as to why the contracted nurses, clinical officers and information technologists and he contracted accountants had not been paid for the month of July, 2015. Mr. Speaker, Sir, this is a critical matter since it concerns finances and thorough investigations on the underlying problems needs to be undertaken to provide adequate response. Mr. Speaker, I therefore need to be granted more days to do thorough inquiry. Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you, the request is granted, proceed.

MOTIONS
SAND HARVESTING BAN IN SEVEN WARDS

Hon. Kyuli: Thank you Mr. Speaker, Sir. Aware that this Hon. House enacted the sand harvesting Act, 2014. And aware that sand harvesting in Wamunyu, Katangi, Ikombe, Mbiuni---

Hon. Member: Point of order.

Hon. Speaker: Yes, Hon. Katela.

Hon. Leonard Katela: Thank you Mr. Speaker, Sir. Mr. Speaker, Sir, I am seeing some unbecoming behavior from one of the members of this house who is carrying a weapon in the house and I don't know where he passed when the Serjeant-at-Arms was all eyes. So Mr. Speaker, Sir, I request Hon. Nzoka to explain what he has in his hand. Thank you.

Hon. Speaker: Yes.

Majority Leader (Hon. Mwonga): Mr. Speaker, it is true the member, whatever he was carrying when he was entering this Hon. House, it can be termed as a weapon Mr. Speaker. I don't know whether these members are safe. Mr. Speaker that is why right now he has hidden it under the chair, Mr. Speaker and he is asking 'what is it?' And Mr. Speaker, I don't know whether it is in order for a Member to come in the chamber with a cowboy hat Mr. Speaker, which is made of leather and Mr. Speaker, if it is thrown to one of our members, they will get hurt, Mr. Speaker.

(Applause)

Mr. Speaker, I will urge that you declare that material Mr. Speaker, a lethal material or a lethal weapon, Mr. Speaker. Thank you.

Hon. Speaker: Thank you, the Speaker is persuaded that the Hon. Nzoka entered the House armed. The Speaker declares you disorderly kindly leave the chamber. Let us proceed Hon. Kyalo Kyuli.

(Laughter)

Hon. Kyuli: Thank you Mr. Speaker---

Hon. Speaker: A moment. Hon. Nzoka, you will be declared disorderly and I will expunge you from this house for the balance of the day. Let us proceed, Hon. Kyalo Kyuli.

(Hon. Nzoka withdraws from the Chamber)

Hon. Kyuli: Thank you Mr. Speaker, aware that this Hon. House enacted the sand harvesting Act 2014, and aware that sand harvesting in Wamunyu ward, Katangi ward, Ikombe ward, Mbiuni ward, Kivaa ward, Masii ward and Kola wards has led to degradation of the environment owing to the fact that, removal of sand results to depletion of underground water shortage, cognizant that open land, sand harvesting is leaving behind large and deep dangerous caves, further aware that sand harvesting has led to decline of education and erosion of moral standards in our community, recognizing that the heavy trucks carry a lot of sand with time lead to destruction of our roads and bridges due to their enormous weight.

Informed that the constitution of Kenya Article 42 (b) provides that, every person has a right to clean and healthy environment which includes the right to have the environment protected for the benefit of the present and future generations through legislative measures not forgetting Article 69 Mr. Speaker, of the constitution of Kenya that provides the State shall ensure sustainable exploitation, and I underline the word sustainable Mr. Speaker, utilization,

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management and conservation of environment and natural resources and ensure equitable sharing of acquired or acquiring accruing benefits.

Mr. Speaker, Sir, pursuant to Machakos County sand harvesting Act 2014, I wish to move this motion that the house bans sand harvesting in Wamunyu, Katangi, Ikombe, Mbiuni, Kivaa, Masii and Kola wards and Mr. Speaker, I have with me public complaints committee on environment. Mr. Speaker, complaint that, I am sure it was referred to our committee in this Assembly on environment and because from the NEMA people or the department, I had written letters to them and they were able to pass this to me about people complaining of sand scooping and harvesting in river Mwitasyano in Katangi Ward. Mr. Speaker, I wish to move this motion that this house discusses and approves this ban Mr. Speaker. Therefore I request Hon. Alex Kathinzi to support the motion. Thank you.

Hon. Alexander Kathinzi: Thank you Mr. Speaker and Mr. Speaker, I stand to second this motion and support that indeed we need to ban sand harvesting in those various wards as stated by the mover of this motion. So therefore I simply stand to support and second this particular motion, that particular view. Thank you very much.

Hon. Speaker: Thank you. The motion is properly laid for debate. Yes Hon. Kyalo Kyuli, maybe as debate proceeds, can you tell us what the Act says about sand harvesting.

Hon. Kyuli: Mr. Speaker, sand harvesting Act, right now I don't have the document with me but Mr. Speaker, we already have enacted on the same which has so many benefits to our community. But Mr. Speaker, with the letter that I had shown you, I had quoted that I have, NEMA is acknowledging that they have given only one certificate for sand harvesting and the rest Mr. Speaker, is being done illegally and we have an act that protects scooping, Mr. Speaker, so therefore---

Hon. Speaker: Let us take a point of order.

POINT OF ORDER

Hon. Katela: Mr. Speaker, Sir, I want the mover of the motion to be clear whether he is calling for the closure of the illegal, the banning of illegal sand harvesting or the legalized one because in some places we have people who have gone to NEMA, who have gone through the whole testing and they have been allowed to scoop sand at a certain level through NEMA limitations. Can he come clear whether he is talking of the illegal scooping or whether it is the legalized---

Hon. Speaker: Let us take point.

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Majority Leader (Hon. Mwonga): Mr. Speaker, I want to inform my colleague here, NEMA doesn't allow sand scooping but sand harvesting Mr. Speaker, in a sustainable manner. Thank you.

Hon. Speaker: Thank you.

Hon. Katela: Can I continue?

Hon. Kyuli: Mr. Speaker, again---

Hon. Speaker: You have finished. Let us hear Hon. Kyuli.

Hon. Kyuli: Again, Mr. Speaker, I am very specific. I am wondering what is troubling my colleague Hon. Katela, because I am talking about Wamunyu, Kivaa, and the rest Mr. Speaker. We did not talk about Muthetheni here Mr. Speaker. So therefore Mr. Speaker, as I had quoted Mr. Speaker, Sir, I just quoted some of the parts of the Machakos County sand harvesting Act that we enacted in this Assembly Mr. Speaker and therefore---

Hon. Speaker: Why, Hon. Kyalo Kyuli, I was asking you this question is because that the sand harvesting act has a self regulating mechanism in the way of licensing. How do you deal with that?

Hon. Kyuli: Mr. Speaker, I agree with you Mr. Speaker. I said from this particular letter Mr. Speaker---

Hon. Member: Order, order.

Hon. Speaker: Let us take the point of order.

POINT OF ORDER

Hon. Cornelius Kitheka: Mr. Speaker, is it in order for that Hon. Member to refer to documents which are not a property of this house? We are dealing with illegal documents here and putting them as the basis of argument in this house. So please can the document be authentic as we deal with them in this house. Thank you, Mr. Speaker.

Hon. Speaker: Thank you.

Hon. Kitheka: Secondly, Mr. Speaker, please, we passed an Act in this house; what was the essence of passing the act, if we will go round and start banning the entire process of the use of the act? What will be the use of the act? Thank you, Mr. Speaker.

Hon. Speaker: Lets allow, let us allow Hon. Kyalo Kyuli.

Hon. Kyuli: Thank you Mr. Speaker---

Hon. Speaker: I uphold the findings that you should not refer to a document that is not well properly laid in the house.

Hon. Kyuli: Thank you, Mr. Speaker. Mr. Speaker, with the act that we have, Mr. Speaker, there is a lot of abuse and that is why earlier in this floor of this house we banned a section of, a part of this County, we banned sand harvesting. Mr. Speaker, within this precincts, within this floor, Mr. Speaker and therefore there was a necessity because you remember Mr. Speaker, we were many looking for ways in which we could be incorporated in that particular motion and therefore it emanated that Mr. Speaker, those that are willing in their wards and Mr. Speaker, the wards that I have mentioned sat with my fellow colleagues and for sure, if you visit in particular Wamunyu today, where this activity is being done illegally and I repeat illegally, you will be amazed by the activities that are going through. Hon. Ngui of Katangi and I have been spending nights in the rivers chasing those that are doing the illegal businesses. Mr. Speaker, Sir---

Hon. Member: Point of order Mr. Speaker.

Hon. Kyuli: Therefore, we are asking that we ban. And banning Mr. Speaker, quoting from you---

Hon. Speaker: Yes.

Hon. Kyuli: While I am quoting you, Mr. Speaker, banning can be lifted after issues that we are complaining about are sorted out, Mr. Speaker.

Hon. Speaker: Okay. Let us hear us hear Hon. Kitheka and Veronicah---

Hon. Kitheka: Mr. Speaker, I want this member to expound clearly what he means by scooping sand illegally because this people who come to scoop sand, they come with authentic documents from the Council, from the County to do the business. If we license people in the town and we follow them where they are going to do the business, we deny them the access of

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the business, what will we be doing, Mr. Speaker? Mr. Speaker, I see us endangering the lives of my people in this town who are doing business of sand harvesting. Thank you.

Hon. Speaker: Yes, Hon. Kathinzi.

Hon. Kathinzi: Thank you Mr. Speaker, I think I was seated quietly to listen to Mheshimiwa Kitheka that, in for instance in Kivaa Ward, sand is being scooped not harvested. Scooped illegally using the wrong time, because in the act we said let us harvest the sand from morning to evening at around 5 p.m. or 6 p.m. to be particular. Let those places where the sand harvesting is being carried out to be gazetted. Let us get the license from NEMA because NEMA is working in the National Government concurrently with the County Governments, so that we can protect our environment. This places where the sand harvesting is being carried out Mr. Speaker, there is no license.

Secondly, the transporters are not even licensed to transport sand from those places so we are dealing with illegal business. That is what we want to ban Mr. Speaker. We are within the rule of law, we want to correct this mess and if things are back to normal procedure, then we can proceed but for now, Mr. Speaker, the electorate has the say and I reported here once again when I was seconding the motion for Mheshimiwa Muthuka and I said I met the two locations from Kivaa ward, that is; Kivaa location and Kithyoko location, all parents from all primary schools and secondary schools and we said unanimously, this business of sand harvesting, call it sand scooping, call it whichever name, Mr. Speaker, it is spoiling our systems of education.

I am lucky enough to report here today that in Masinga Sub-County and Yatta Sub-County, Kivaa and Kithyoko location are sub zones which are leading in education and so my parents are worried. We want to do away with this business once and for all, at least until when we get corrective measures put in place. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. There is this vital question I asked; do we have a mechanism within the act that regulates the harvesting of sand? Hon. Kyalo Kyuli.

Hon. Kyuli: Mr. Speaker, we passed an act---

Hon. Speaker: Yes.

Hon. Kyuli: Mr. Speaker, we have not had the instruments of operationalizing the act Mr. Speaker. So there are not even instruments as we speak now, Mr. Speaker. So therefore, this act cannot be operationalized without the instruments so, while we find within the act giving the community first priority to determine whether it is going to happen in their areas, and Mr. Speaker while I am standing here, I represent Wamunyu and I represent the views of Wamunyu

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people. So, Wamunyu people and those that are within the areas where the rivers are, they do not want sand harvesting. Again Mr. Speaker, I would like to wonder about, whether my colleague cannot differentiate between harvesting and scooping Mr. Speaker. Simple English. Scooping and harvesting. So therefore, let us combine them Mr. Speaker to either mean scooping or harvesting.

So therefore harvesting and scooping in my area, we do not want that particular issue done because of the few issues that I have pointed out; education, health and even our roads Mr. Speaker. Mr. Speaker, insecurity. So those and many others are the things that are affecting my people so therefore that is why I moved this motion that we discuss and approve that in Wamunyu and the other wards that I have mentioned that we ban. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. Hon. Kyalo Kyuli, have you told us if there is there an organ that has been created by the act that issues licenses? Is there an organ?

Hon. Kyuli: Yes, Mr. Speaker.

Hon. Speaker: What is the name of the organ?

Hon. Kyuli: This County Assembly licenses the traders, Mr. Speaker.

(Applause)

This County not the County Assembly---

Hon. Speaker: Yes.

Hon. Kyuli: The County licenses the operators of the machines, that is the lorries. There is a license that they must pay for them to operate and any other business, Mr. Speaker, in this County. Any other business has to be licensed by the County. Again, NEMA has to do Environmental Impact Assessment so that they also license the people around the rivers so that they can engage in sand harvesting, Mr. Speaker.

Hon. Speaker: Then let us proceed, let us proceed and hear. Yes Hon. Veronicah.

Hon. Veronicah Mbithe: Thank you Mr. Speaker. My view on this Mr. Speaker, Sir, is that as legislators, we did our part by coming up with the act and, Mr. Speaker, Sir, I believe that there are law enforcers whereby if the scooping is being done in the wrong places, that is the work of the law enforcers, Mr. Speaker.

(Applause)

So we did the act bearing in mind Mr. Speaker, Sir, sand is the only gold in our land bearing in mind that there is scarcity of rain in our land, Ukambani, that is Machakos County and that is the only source of our revenue Mr. Speaker, Sir, and our people need money to take their children to school on the same and also to have their daily life. Mr. Speaker, Sir, I believe that we did our work completely. When you look at that act, we put in place even the operational time, the gazetting of the areas that are need to be harvested the sand and that is the work now for the County Government and the enforcers of law to make sure that the act is well-established. Thank you Mr. Speaker, Sir.

(Applause)

Hon. Speaker: Maybe Hon. Kyalo Kyuli, maybe you can read section 28 of sand harvesting Act so that the house can be properly guided on the provisions. Section 28.

Hon. Kyuli: Thank you, Mr. Speaker. It reads ‘the licensing officer authorized officer or police officer may order a license holder to stop any sand harvesting activity and close the site if it appears that the site is in a condition dangerous to human life or detrimental to public health or safety. (2) the order provided in sub section one, shall remain in force until the licensing officer is satisfied that the conditions have been satisfactorily approved---

Hon. Speaker: Approved.

Hon. Kyuli: (3) ‘any person who contravenes an order issued under this section commits an offence.’

Hon. Speaker: And maybe tell us something in light of that section.

Hon. Kyuli: Thank you Mr. Speaker. Again while we read the same, Mr. Speaker, if there is a license issued in conjunction with what the Environmental Impact Assessment says about such an area that is gazette for sand harvesting, Mr. Speaker, before that license is issued Mr. Speaker, therefore when it is being done, it becomes illegal. There has been no Environmental Impact Assessment done in Wamunyu area. So therefore, while this activity is continuing, Mr. Speaker, it is illegal. And now that no measures are being taken, Mr. Speaker, I am pleading with this house that we pass a motion that we stop this illegal business that is continuing on in my area, Mr. Speaker.

Hon. Speaker: Yes. Point.

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(Loud consultations)

Hon. Edrick Ngunzi: Mr. Speaker, I stood here as Chairperson of Environment committee when we addressed the sand harvesting issue on Ndalani and informed this house that we have a very nice act that is lying in cupboards. It has not been put into effect. Although the commencement date, was to be November, 2014, the act has not been operationalized and I urged my fellow Chairperson of implementation committee to make sure that the act is working.

(Applause)

If the act was working, Mr. Speaker, we could not be dealing with what we are dealing with today because if we stand here to say that we ban sand harvesting in this many wards; Wamunyu, Katangi. Kola, *wapi, nini*, it is like we're killing the building business.

(Applause)

We are killing the building industry because we will soon get no sand. If we approve all of them, then others will come with similar motions tomorrow and that soon we will have no sand. So can we make sure that the act is working, lorries are still carrying sand at night, that we burnt from the act, and harvesting.....we have procedures and processes that should be followed if we dealt with the act, Mr. Speaker. Thank you.

Hon. Speaker: Let me hear Hon. Nduva.

Hon. Sammy Nduva: Thank you Mr. Speaker. Mr. Speaker, the issue of sand in this county is a big issue and each member in this County Assembly knows or is aware of the impact not forgetting our County Government is also getting revenue from the traders who pay licenses to sell the sand. But Mr. Speaker, this is a resource that is surrounding our community, some of whom make their livelihood from the said resource. So, Mr. Speaker, when you are looking at this issue of sand, to my position and understanding, Mr. Speaker, we should not take it as a matter of just coming up and saying 20 wards or 10 wards, the business to be closed in this County Assembly. But because where the business is done, community is involved.

They should come with a reason to why they feel this business is not of importance to them because we know it has a lot of negative impact but Mr. Speaker, together with the bill that we passed in this house, we should consider where now the issue is coming from. If there is need for the business to be banned or stopped from a certain area, there must be details and reasons

sufficient to why the business should be stopped because it is important to us, to the community and our County Government. Thank you, Mr. Speaker.

Hon. Speaker: Thank you, let us hear Hon. Muthuka.

Hon. Stephen Muthuka: Thank you Mr. Speaker, Sir, and the rest of the house. Mr. Speaker, I wonder if you are talking about licensing of sand harvesting. When we license these traders, we do not specify where they scoop the sand. It is a general license. You can get sand from Machakos County and now we are very specific on some areas. Mr. Speaker, before we went for recess, we passed resolution of the house that, sand harvesting be suspended in Ndalani Ward. I am sorry to report that, that is in paper, and I feel bitter to discuss about same issues while there is no implementation. We keep on passing a lot of things here, wasting our time yet it is as if we do not have a working government.

Mr. Speaker, Sir, right away I am coming from my area. The roads are impassable. Thanks to the teachers strike, I am being forced to close some schools because once the lorries pass through the schools, the dust is flowing through the classrooms. So the children are forced to get out of the class to wait for the dust to settle. Seriously, even if we are looking for what money, are we supporting the business simply because we have some business people who are making money out of it or are we protecting the future? Because today, those are primary kids, by the time some of them get to standard eight, they have complications of asthma or anything. So, instead of looking for the money to educate our children, we will be looking for money to get their medication.

Mr. Speaker, I have some areas that I cannot even get there. I need to leave my car some five or 10 kilometers to trek to that place. Mr. Speaker, we must be very sober on what we are talking about. And again before even we talk about suspension or even banning or whatever, do we have a working institution, do we have a government that can implement what we are passing in this house. Mr. Speaker, Sir, I don't want to blame the implementation committee; I believe they have done their part but then is it that this Assembly does not have powers or what is the problem. I want to refer even what we did yesterday, it wasn't within the law but sometimes we need to force our way in.

Tomorrow, there is a demonstration which planned in my place to have the residence close the roads. Is that the way since we gave that directive that sand harvesting should be stopped in Ndalani? Do we wait until our residence get to the streets, destroy property in the name of they want to protect themselves? Mr. Speaker, as we talk, we are talking about less than 10 wards. And if you look at the wards, they are wards from Yatta, Masinga and Wamunyu. That is a desert, it is a semi-desert in our County. Then the people who are talking about we should not ban it, some of them are in that business and some of them, the sand is not scooped from their areas.

Some of them come from this area and they are talking about ‘we are going to kill the building industry.’ Where are these buildings coming from? If you come to Ndalani, that sand is ferried to other buildings in Murang’a, Nairobi. Are we building Murang’a or Nairobi? Mr. Speaker, as I wind up---

Hon. Speaker: Allow him to finish please.

Hon. Muthuka: Let us be serious and it is better we suspend our business, how we transact our business to ensure that the little that we have done, is implemented so that also we will get some honour and also we will be now moving the direct direction, otherwise it will be just a normal debate which should be conducted by even high school kids. Thank you, Mr. Speaker.

Hon. Speaker: Let us hear Hon. Veronicah.

Hon. V. Mbithe: Thank you Mr. Speaker. Once more I stand to talk about this motion because I feel.....okay, it is a contentious issue because it affects each one of us. I am not trying to talk on behalf of those who do the business but let us weigh the issues because, Mr. Speaker, Sir, when you look at this wards, they are quite many and if business is suspended at a go, abruptly, it is going to affect actually we will have cases of theft and thuggery because those people who were used to get that money will be looking for other ways and if they don’t get, they will look for another way.

In economics, Mr. Speaker, Sir, for a commodity to acquire price it is made scarce either artificially or naturally. Mr. Speaker, Sir, for this land to benefit fully on the sand issues it is my opinion or my proposal that on the most affected areas are that the suspension is done through the legal way not just making an announcement in the house that this is going to be done, then through the legal way that is the....Protect me, Mr. Speaker, Sir---

Hon. Speaker: Let us take the point of order first.

POINT OF ORDER

Hon. Kyuli: Thank you, Mr. Speaker. I wish to inform the Member that, whatever we do here is very legal. We are supposed to legislate and this is a legislative house so we legislate, and that is the law, Mr. Speaker.

Hon. Speaker: Proceed, Hon. Veronicah.

Hon. V. Mbithe: Thank you Mr. Speaker, Sir. As legislators, we did our part, Mr. Speaker, Sir, but to make the point clear, I am saying that it is in order for the suspension but through the legal way, through the officers who are supposed to do it and again not abruptly the whole ward because it is going to affect the livelihood of those people. Mr. Speaker, Sir, in some places like Naivasha, I saw like in Nakuru, that commodity is packed in sacks because it is not very much on those areas. So if only a few areas are left for the harvesting, the sand will have more price and it will be more beneficial to our people and the same money will be used to repair the same roads. Thank you Mr. Speaker, Sir.

Hon. Speaker: Yes. Maybe allow me to interrogate Hon. Kyalo Kyuli also. Looking at section 28, the licensing officer or the authorized officer or a police officer has the power to close the site, is that right? Has a formal report been made for closure of the site? Has a formal complaint been made for closure of the site, maybe?

Hon. Kyuli: Formal request for closure, Mr. Speaker?

Hon. Speaker: Yes.

Hon. Kyuli: Yes. If you got to Masii OCPD---

Hon. Speaker: Yes.

Hon. Kyuli: We have written letters to him, Mr. Speaker, and he has been helping us fight the menace. So Mr. Speaker, the OCPD has agreed to what the community says. But why Mr. Speaker, I am bringing it up here? It is because, Mr. Speaker, we also need back up from this particular house because apart from the act which has not been operationalized, Mr. Speaker. As I said, if you look again at the act, the administration....section 4, 'there is established County sand harvesting and management committee.' Mr. Speaker, this committee up to now has not been put in place, Mr. Speaker. So therefore, we have the law, it is here. Where are the operators of the law, where is the committee Mr. Speaker? so therefore Mr. Speaker, as a matter of trying to arrest a problem that is going to raise many more other problems, Mr. Speaker, I plead with the house to pass a motion here that we stop and we follow what we are going to pass in the house, Mr. Speaker.

Hon. Speaker: Okay. Thank you. Let us hear Hon. Manyolo at the back.

Hon. David Manyolo: Thank you Mr. Speaker, Sir and the house at large. Mr. Speaker, Sir, first I am so much worried whether Hon. Kyalo Kyuli represents Katangi, Ikombe, Mbiuni, Kivaa, Masii or Kola because we have Hon. Members from those areas, or have you been sent by

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them because some are not in the house? Two, Mr. Speaker, Sir, we have not to be taken back from where we had come from because we had discussed about the document, the article we have now. What was the essence of us going round for public participation and it touches all the lines; of licensing, of scooping or harvesting of sand and regulations on how you can implement.

Are we all going to discuss the scooping while we have the document which can guide us? I understand, Mr. Speaker, Sir, it is not in order for us to discuss this motion now because if we have the regulations and you have guided us, it is better for us to go through the regulations and two, you can't just wake up in the morning and you decide to chase your wife without any allegations. It is better for the member to come up with proper allegations of why he is going to stop sand harvesting in his area. Thank you Mr. Speaker, Sir.

Hon. Speaker: Yes. Inform.

Hon. Kathinzi: Thank you Mr. Speaker, once again would like to inform Mheshimiwa Manyolo, Mheshimiwa Mutole, that I am just worried because last time I reported it here in this house that the loaders of this sand harvest, the trucks they are coming with their own loaders maybe from Kiambu, from Thika and they come with bhang, *mira* (khat). One day I can remember even you retrieve this from the HANSARD report, that they sat before me and they started smoking bhang in the public. There is no law enforcement. They are loading the sand at night, the places they are doing this business is not gazette and they have no license to transport. So Mr. Speaker, I was also to say this; that even people are even dying because of this dykes they are digging (??). Ask Mheshimiwa Majority Leader, how many people has he buried from his area---

Hon. Speaker: Let us hear Majority Leader.

Majority Leader (Hon. Mwonga): Mr. Speaker, I don't know where to start whether to respond on what has been raised by the Hon. Member for Kivaa ward or I go straight to contribution, Mr. Speaker.

Hon. Speaker: Proceed.

Majority Leader (Hon. Mwonga): Mr. Speaker, I totally oppose or I totally don't support this motion. Mr. Speaker, it is only yesterday when this house stood as one because they knew what they were doing when they stood as one, Mr. Speaker. Mr. Speaker, from this motion, I read mischief, Mr. Speaker, look at the wards which want this sand harvesting to be stopped. Mr. Speaker, I want to be very categorical and clear, Mr. Speaker. This is a way of crippling the Government, Mr. Speaker. Why, Mr. Speaker? The same, same wards where this motion want sand to be stopped is represented by the same, same members who have been against what the
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Government is doing, Mr. Speaker, and they want sand stopped so that this county cannot have revenue, Mr. Speaker---

(Applause)

I have no apologies on that Mr. Speaker. This house has two political divides, Mr. Speaker---

Hon. Speaker: Sorry. Let me take that order.

Majority Leader (Hon. Mwonga): Mr. Speaker I need your protection---

Hon. Speaker: Let me take the point of order.

POINT OF ORDER

Hon. Francis Matheka: Thank you, Mr. Speaker. Mr. Speaker, Sir, Is it in order for the Majority Leader to say that the wards which are being requested for banning of sand harvesting are represented by people who are against the Government? Mr. Speaker, Sir, I want to say it here, there is nobody who is against the Government. We are against the act of the Government. Mr. Speaker, Sir, the Government is composed of members of two sides. We all belong to the Government, and Mr. Speaker, Sir, Katangi ward, Ikombe ward, Masii ward, you know who represents them and which divide of the house they come from. There is no difference here between any member of the Government and any Member opposing the Government. We all belong to the County Government of Machakos. So Mr. Speaker, Sir, if it is a matter of issues, we raise issues but not individuals. We are not here to discuss about individuals because we all belong to the same Government. Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you. I think the point raised is sustained. Hon. Majority Leader.

Majority Leader (Hon. Mwonga): Mr. Speaker, as members who want sand harvesting to be banned in their wards, they should ask themselves one question; it is only last month or two months ago Mr. Speaker, when we passed a budget here and on our budget, Mr. Speaker, we knew what this County is going to receive from the National Government. Where will the other monies come from, Mr. Speaker? Some of this monies will come from levies on sand, Mr. Speaker, and if today we agree and ban sand in this four or so wards, Mr. Speaker, tomorrow maybe the representatives of wards where we get building stones, they will also gang up Mr. Speaker and say; 'let us bring a motion to the house and ban the issue of building stones.' What

will happen? Mr. Speaker, this County will have no local resources and that is local revenue and Mr. Speaker, we will be grounding the functions of this Government.

Mr. Speaker, on the issue of whether we should stop sand harvesting or not, Mr. Speaker, I want the members to go back to the act which we passed, Mr. Speaker, and the community have the upper say on this. I represent a ward whereby this County receives a lot of revenue through sand sale and in my ward, there are areas where sand harvesting does not take place, Mr. Speaker. Why? Because the community has said no. I want to say this before this Hon. House and Hon. Nduva said, Hon. Member for Ndalani has said it. We passed a resolution here, that we should stop sand harvesting in Ndalani. Has it stopped? He has said no. Mr. Speaker, it is only the communities which can put a total ban, nobody else, Mr. Speaker. Even the mechanisms we are going to put in place, without the will of the local community, sand harvesting will continue.

Mr. Speaker, the issue of sand harvesting did not start yesterday. The mover of this motion knows that when he was the Finance Chairman in the defunct Masaku County Council, the biggest earner of revenue, Mr. Speaker, was levies from sand. I don't know why Mr. Speaker, he is turning around knowing that is one of the biggest earners of revenue in this county and suggesting that we ban sand harvesting. Mr. Speaker, I am totally opposing this motion Mr. Speaker and I have read the mood of this house. Majority of members here are not supporting this motion. Put the question and you will wonder, Mr. Speaker. Thank you.

Hon. Speaker: Thank you. Let us hear Hon. Kathinzi.

Hon. Kathinzi: Thank you Mr. Speaker. Once again, I would like to probably guide the Majority Leader. The motion we are taking to stop sand harvesting is in the places where the community has said No that the transporters, two or three people have been scooping sand at night. Small children from primary school pupils are getting into that activity at night. They are given homework by their teachers and they don't do it. It is pathetic. I wish and I hope one day we can stand united and say these things that are not helping our community, let us stop them in this assembly. So what mheshimiwa has said her is that we need to show that we have done our part.

If the regulations are in order, the Act is in place and CEC has not done anything in regard to this, so what else are we supposed to do Mr. Speaker? Let us see the light, what we are going to see. I will make it my responsibility. The people of Kivaa have spoken in one voice. Three months ago we stopped at a day school, on a Friday, all schools were shut down and we held a resolution that let us have this menace done away with from this area. So it is in the common interest of our people. Let us not see the income or the cess or whatever you call it, it is the importance of bringing up our own children in a good manner because the history will be read on our names in future.

So, I still support and strongly support that we ban sand harvesting in the areas mentioned in this motion. Any other member who wishes to have sand harvesting in his or her own area, let them do so but we are speaking the voice of our people Mr. Speaker, Sir. Thank you.

Hon. Spekar: Hon. Kitheka.

Hon. Kitheka: Thank you Mr. Speaker. I wish to point out Mr. Speaker, that the issue of banning sand harvest has become a chronic disease in this house. It is as if it is a communicable disease. If Kivaa comes up here, if Ndalani wakes up one morning and say that we ban sand harvesting, the other wards come here with documents saying that we ban sand harvesting even without substantive support documents of why we are banning sand harvesting. Mr. Speaker, we maybe endangering our business community by doing this. So Mr. Speaker, I have three issues to point out; one, Mr. Speaker, by suspending the issue of sand scooping and sand harvesting we will be interfering with the same act which we passed in this Assembly by trying now to take the part of implementing what we passed in this house and that is none of our business to do the issue of implementing what we passed in this house.

(Applause)

Secondly, Mr. Speaker, we passed in this same house a finance bill which was meant to become an act which had stipulated clearly about the Fees and Charges. Now that those people are charged according to the bill which we passed in this house, does it make sense for us to just go and follow them outside their to deny them to do business? It doesn't augur well in that situation. So Mr. Speaker, when some of us, Hon. Members stand here and say that we maybe not knowing what is happening, in those areas, we know very clearly that if you do a wrong, it remains to be a wrong.

If somebody comes and smokes bhang in your area, there are law enforcers who are supposed to carry on that business of reducing that issue of smoking opium and other issues like cannabis sativa. So Mr. Speaker, I don't see the essence of interfering with other departments which we have authorized to carry on issues. So Mr. Speaker, to end my point and to rest my case, Mr. Speaker, the community has the right to talk about what is happening in their areas. So if the community is not coming up to say and to refuse the harvest of sand, we have got no business in this house to interfere.

If Hon. Kathinzi is saying that they speak at day time and they talk with the people to re-do the issue of harvesting sand, what about at night? Do not they have voice to speak at night? So, Mr. Speaker, to rest, I wish to tell him that, no man can ride on your back unless you bend for him to do so. They are riding on your back because you have bent for them to ride on you. Thank you.

(Applause)

Hon. Speaker: Hon. Raphael Mutuku.

Hon. Raphael Mutuku: Thank you Mr. Speaker. Mr. Speaker, Sir, I am supporting members who are opposing this motion and Mr. Speaker, Sir, the reason why I am opposing the same, among the sources of law, one is through the Parliament, this is a Parliament. We did our part through legislation and more so the issues that are raised by the member, even young pupils being involved in sand harvesting, it is well stipulated within the act. The issue of enforcing it is well stipulated in the act and Mr. Speaker, without wasting much time, I would urge if you would urge the relevant department to implement that act and that act will bring sanity.

When we were passing that act in this Assembly, every member was saying; 'let us pass this act to bring sanity in sand harvesting'. Today we are talking of the same menace. If that act is implemented, we would not have that menace. I oppose that motion and what I will say, I will support the member if he was urging the department to implement the act the soonest possible. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. Hon. Kyalo Kyuli, instead of going through all this, if there is a particular area that has a problem, a committee cannot summon the Officer who is in charge of that area, the OCPD and ask questions towards finding a solution to this?

Hon. Kyuli: Mr. Speaker, thank you. When I was writing this motion, Mr. Speaker, I was looking for solutions Mr. Speaker. That is number one, because in my area it is a true menace. I have spent sleepless nights, I hear Hon. Members speak in this particular floor as if they do not know we represent our electorate, Mr. Speaker, and we are the voice, I am the voice of Wamunyu because I am doing representation, Mr. Speaker---

Hon. Speaker: Proceed. Yes.

So therefore, when we are contributing, Mr. Speaker, let us all understand we are representatives of a particular electorate. Mr. Speaker, therefore, this particular act, is not assisting Wamunyu in any way. Mr. Speaker that is why I have a motion here, because I have not been assisted by this act---

Hon. Speaker: Thank you.

Hon. Kyuli: Therefore, when we present motions here, I have looked at the impact *vis-a-vis* the financial impact negatively *vis-a-vis* what other impact that I am going to be left with

while they scoop sand and go. Mr. Speaker, revenue collection therefore Mr. Speaker, in this particular act, Mr. Speaker---

Hon. Speaker: Just finalize Hon. Kyalo Kyuli.

Hon. Kyuli: In revenue collection Mr. Speaker, nobody is against revenue collection, I personally, I am not against revenue collection at all, Mr. Speaker. I am weighing whichever is lesser, whichever is profitable where I come from. Mr. Speaker, when we charge the lorries think it is Ksh. 21,000 per month, if not Ksh. 21,000 its Ksh. 15,000, I am not clear about that, when we charge whatever amount to the business community, we earn revenue. Mr. Speaker, if you go to river Athi where they are doing the scooping, just go to the farms neighboring the river, Mr. Speaker, the human faeces there, Mr. Speaker, you will vomit. Mr. Speaker, if you go there at night, you find women and children selling food, Mr. Speaker, in the rivers at night. It is despicable. Mr. Speaker, if you go there, and I was on television last week but one, showing condoms, Mr. Speaker---

Hon. Members: Point of order, point of order.

Hon. Kyuli:Showing bottles of, Mr. Speaker, allow me—

Hon. Speaker: Hon. Kyalo Kyuli is protected.

Hon. Kyuli: Thank you, Mr. Speaker.

Hon. Speaker: I protect Kyalo Kyuli.

Hon. Kyuli: Mr. Speaker, thank you. Showing bottles of the banned beers that being sold in the rivers, Mr. Speaker. Are you telling me Ksh. 21,000 is equivalent to a life lost? Mr. Speaker, when we were constructing boreholes for Secondary schools a month ago, when I was looking for people who have passed form four, Mr. Speaker, and in my school called Miondoni Secondary School, I could not find any. Mr. Speaker, are you telling me Ksh. 21,000 is equivalent to not constructing a board of school? Mr. Speaker, when you pay Ksh. 21,000 to this County as a transporter, is it equivalent to people that are coming to our area doing surveillance and at night people are robbed, people are killed, people's houses are broken into. Is it equivalent Mr. Speaker? Is Ksh. 21,000 equivalent to destroying our children's future, Mr. Speaker?

Hon. Speaker: Hon. Kyalo Kyuli, I think the point is addressed now.

Hon. Kyuli: I need assistance, Mr. Speaker, and this is a serious issue. Let us not demonize this issue and Mr. Speaker, nobody is against revenue collection.

Hon. Speaker: It is Okay. Yes, yes clarify.

Hon. Kitheka: Mr. Speaker, I smell a rat because the Hon. Member for Wamunyu is here, the Hon. Member for Kivaa is here and the other members, whose wards have been listed here, are not here. Mr. Speaker, I was on the opinion, we address the issues of members who are in this house because maybe it is a political sabotage. We may not know because the members are not here. So Mr. Speaker, let us address of the members who are in this house.

Hon. Speaker: I don't agree with you. The motion has not been amended. Hon. Mueni.

Hon. Benedette Mueni: Thank you Mr. Speaker, Sir. For one, I don't support the banning of the sand harvesting because as the members have said, we need revenue and also the people who are supposed to refuse with their sand, are the surrounding people of the river. So even if we ban, those people will continue selling the sand. So Mr. Speaker, Sir, I ask my friend Hon. Kyalo Kyuli to go and talk to his people to understand exactly what they want. If they want their children not to continue with school, fine. Thank you Mr. Speaker, Sir.

(Laughter)

Hon. Speaker: Order Hon. Kyalo Kyuli. I think the point has been delivered very well. Yes.

Hon. Geoffrey Munyao: Thank you Mr. Speaker. I stand to inform you that this Hon. House is lacking quorum. Thank you Mr. Speaker, Sir.

(Laughter)

Hon. Speaker: Clerk.

(Speaker consults with the Clerk)

Alright, the house is lacking in quorum but..... (inaudible) this is a point of order. It was brought under which Standing Order?

Hon. Munyao: Mr. Speaker, I rose on a point of information not on a point of order.

(Laughter)

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Hon. Speaker: Serjeant At Arms, kindly ring the bell.

(Quorum Bell rung)

Order, Hon. Members, recall the bell. It appears that quorum is not attained and therefore under Standing Order number 32 (2) (b) the house will stand adjourned without a question put.

ADJOURNMENT

Hon. Speaker: The business shall continue in the next sitting. Thank you.

The House rose at 3.45 p.m.