



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Third County Assembly – Second Session

Tuesday 14th March 2023

The House met at 2.30 p.m.

[Hon. Temporary Speaker (Mr. Antony Gathumbi) in the Chair]

PRAYER

QUORUM

Hon. Temporary Speaker: Clerk, confirm quorum.

(The Clerk-at-the-Table confirmed there was no quorum)

Wale ambao wamesimama, kwa heshima naomba wakae chini. Inaonekana bado hatujafaulu kupata akida inayostahili. Serjeant-at-Arms, tafadhali kengele ipigwe kwa dakika kumi.

(Kengele ya akida ilipigwa)

Thank you, Hon. Whip for whipping. Hon. Members, I am advised there is quorum. So, Clerk we can start.

COMMUNICATION FROM THE CHAIR

COMMITTEE SITTINGS DURING ASSEMBLY PLENARY SITTINGS

Hon. Temporary Speaker: Hon. Members, I have the following communication to convey:

Hon. Members, of the recent days, the County Assembly has witnessed an upcoming trend by Committees sitting outside the Assembly precincts during the sittings of the County Assembly without the permission of the Speaker.

Hon. Members, Standing Order 178 states that, *"A sitting of a committee shall be held at such place, date and time as shall be determined by the chairperson or on a petition made by at least a third of the*

members of that committee, but no meeting of a committee may be held outside the precincts of County Assembly without the approval of the Speaker".

Hon. Members, Standing Order 182 (2) states, "Except for the County Assembly Business Committee, a select committee shall not meet during a sitting of the County Assembly without the written permission of the Speaker".

Furthermore, Standing Order 182 (4) provides that, "The proceedings of a meeting of a committee held contrary to paragraph (2) shall be void".

Hon. Members, the Assembly committees sitting outside the precincts during Assembly Sitting days are a breach of the provisions of the Standing Orders we are supposed to uphold and adhere to.

Hon. Members, I here therefore direct that no committee shall sit outside the precincts of the County Assembly during the Assembly sitting days, being Tuesdays, Wednesdays and Thursdays. The proceedings of such a meeting of the committee held contrary to paragraph (2) of Standing Order 182 shall be void.

Hon. Members, it is so directed. Thank you.

(Applause)

STATEMENTS

Hon. Temporary Speaker: Hon. Majority Leader.

Hon. Peter Imwatok: Hon. Speaker and Hon. Members, allow me to say with a lot of sincerity and honesty that I am a proud man and a proud Member of the Third Assembly of the County Assembly of Nairobi. I want to give a status report. The Standing Orders allows the Majority Leader, the Minority Leader or the Whips to stand at any given time of the Statements to make a statement on behalf of the Assembly.

Hon. Speaker, last week, I stood before this Assembly and brought a notice of Motion that was to be tabled thereafter on Thursday. It happened that Azimio Coalition Party had different arrangements with our party leadership, therefore, there was no quorum in this Assembly. All said and done, I have a communication to make:

Hon. Speaker and Hon. Members, you are aware that I said last week that in the history of devolution, I saw Governor Dr. Evans Kidero and his administration, at no any given time the County Assembly of Nairobi was stifled its right to shareable budget. I saw one of the roughest Governor of the City, Mike Mbuvi Sonko and his administration, at no any given time the County Assembly was stifled its financial obligations. I saw a gentleman called Benson Kangara Mutura, my former Speaker, who acted for two months as the Governor, at no any given time did he and his administration deny the Assembly its financial obligation. I went further and said that I saw one Anne Kananu, irrespective of her inadequacies, I never saw any day the County Assembly of Nairobi stifled its rightful share of Kshs1.4billion in terms of his sharable budget lines. I am now watching the current Governor, a soft spoken, *siasa safi*. I said I am watching whether this Assembly can be stifled of its rightful share during his administration.

Hon. Speaker, I placed before this Assembly, a notice of Motion to discuss the conduct of the CEC of Finance. As a House we decided to give six hours for all the money pending at the office of the CEC of Finance and the County Treasury, to be released to the County Assembly of Nairobi through COB. I want to

report through this House that as at the following day on Thursday at 2.00 p.m., all the money, the Kshs161million had been released to COB for this County Assembly.

(Applause)

Therefore, I want to say as a warning – I can see media reporting all types of issues they want to report – this House under our leadership will not entertain an officer or anyone who wants to take Nairobi City County Assembly as a Department in the Executive. It does not matter how much you will report Imwatak or any Member from this County Assembly, we will remain firm. In our time, we must be defined by what we stand for. What I stand for as Leader of Majority is that, I will not allow the Third Assembly of Nairobi to be a department in the Executive.

I want to say thank you to the Executive for honoring this pledge. Those who know, we mean what we say. Going forward, we want to implore the Clerk's office and the Speaker's office to get a team from the County Assembly and align all our requisitions in time. I do not want to see a situation whereby Members are supposed to go to Maxland but have no fuel to go there. Most Members have gone to Mombasa, they beg where to sleep at Mtwapa. It is not honourable.

(Applause)

Currently, some of our colleagues are in New York City for the Women Caucus, some of them had no place to sleep. I am happy to report that now they have their allowances. *(Applause)* Therefore, it is not a fight for any individual but primarily a fight for the independence of the Assembly. No one fights any member of the Executive, it is just the fight for our rightful share.

Hon. Members, that is the report I wanted to say, and I am happy to say that we are now starting to do our oversight role. This money is not only for eating, I asked a staff in my office, "look at this list, is there any money I can eat from there?" How can I eat Ochieng Jera's allowance for Mombasa? How can I eat your loan and mortgage, is it possible?

There are Members here who were supposed to travel last week. I feel so bitter a Member could not afford a ticket. I am happy today that the company that supply tickets has been paid, at least we can get tickets so that the Members can travel.

(Applause)

Hon. Members, it is not for me neither for the Leader of Minority or the Whips, it is for all of us. It is not about Azimio or UDA. We have 49 months to go, we must get the little we can get. I beg to lay that Statement, Hon. Speaker. Thank you.

(Applause)

Hon. Temporary Speaker: Thank you very much. The Speaker observes your eloquence and direction. Minority Whip.

Hon. Mark Mugambi: Thank you, Hon. Speaker. I would like also mention a few things regarding to the statement that the Majority Leader has made. As you are aware, I was not there when the notice of Motion was given, so I did not give my input.

Hon. Speaker, I would like to concur with most of what the Majority Leader has said. But on the other hand, the Assembly should also take a blame on this, especially from the Clerk's side. We need to have quarterly budgets. Right now, we have a schedule of the retreats that are supposed to be undertaken, have the requisitions been made? We understand that Members are supposed to travel abroad, have the requisitions been made? We know we have a budget; can we start by cleaning our in-house mess before we transfer it. *(Applause)* Let us start from inside. Let the Clerk do a proper planning of requesting these finances for the Assembly usage. By the time the Members are travelling to Mombasa or elsewhere, let them be having their monies in their accounts. We can only achieve this by making sure that we have made this early prearrangements of requisitions a week or two weeks before the date of travel.

(Applause)

We understand we have a challenge with the COB, what has the Assembly done? If we know that the COB will take two weeks or three weeks, let us re-adjust. If we send our work plans and we know there will be a delay, let us start preparing them earlier so that we cannot stall anywhere.

Hon. Speaker, the Majority Leader has spoken very well and I support him, but also my leader, let us also keep our Administrator in check so that we do not shift this blame. For instance, the issue of our dear women that traveled to the UN Conference. As a Loans Committee, we did our work and approved the usage of the said funds. I don't understand why we still go back to the Executive to grant us orders to utilize our own funds that we have. We don't need to go back. Let me not air everything but my parting short is, let us start preparing well in advance.

There are committees which are supposed to travel on Thursday, can we make sure by Thursday noon they have monies in their accounts. I think with that we will have an effective Assembly. Most of the Members have lost track of what has not been paid. For instance, I had to change my account to separate the salary and the retreats because you are paid something and you don't know whether it is from Executive or Assembly. Let us fight the Executive on their shortcomings because they also delay in paying Members the Executive retreats. But on matters of the Assembly, let us lock horns without burring our heads in the sand with the persons responsible. *Wacha watutengeneze makaratasi yao mapema at least wiki moja ama mbili kabla waheshimiwa wasafiri.* Thank you, Hon. Speaker and Majority Leader.

(Applause)

Hon. Temporary Speaker: Thank you. I can see the Assembly is in good hands.

Point of Order

Majority Whip, the floor is yours.

Hon. Moses Ogeto: Thank you, Hon. Speaker for you using Kiswahili. At times, Kiswahili is very difficult for people like us who comes from the sides of the Lake. We really congratulate you for trying to ensure that the Kiswahili from Mombasa is being adopted.

Hon. Speaker, I am on a point of order under Standing Order 46 (2) on the Leader of Majority reporting to the Assembly the progress of the report.

Hon. Speaker, I want to congratulate you by giving a very comprehensive report on your communication from the Chair. Today I am very happy the House is almost full. You realize raising a quorum in this House has become a problem. I want to sincerely thank you. I also thank the Leader of Majority and the House at large. We will not get tired, we will ensure that we must liberate this Assembly and we must work.

Hon. Speaker, we are waiting report on the collection of revenue in this city. The Chair of ICT and the Vice Chair are here, let them not fear that we will squeeze their balls. They need to bring the report. I was telling the Leader of Majority to form ad hoc committee. If they don't have balls, let them resign from those positions and I will bring a motion of adjournment on the same. As much as we encourage Nairobi to pay taxes, they must get service

The Chair of Public Accounts Committee did tremendous work today. He told the members of the Executive that the committee will not deal with them unless they sort Members first. That is the unity we need in this House. If we do not have that unity, then we are doomed. Hon. Speaker, you can imagine you are sitting there and you do not earn allowance, it will be very difficult. I was pleading with Hon. Matach and other Members to come to the House so that we can have a quorum. How are we going to motivate Members to come to the Assembly yet you have not paid even their allowances?

Hon. Speaker, we want to put the office of the Clerk on notice that it must ensure that all the requisitions for Members' travels are prepared early

(Applause)

Hon. Speaker, we had a Clerk called Jacob Ngwele, if it is not for him this House could not have been completed. The efficiency during that time in the First Assembly is the efficiency we want in this House. The committee clerks should know that they are working for the Hon. Members, they are not working for themselves. If they want to be Hon. Members, let them resign.

The office of the Clerk must be efficient and competent in ensuring that the Members' welfare is well taken care of. Even the water they are buying for us look substandard. That is where we have reached in this House. I heard that by next week the House might collapse. There is spread of cholera in Nairobi but we do not have water in the toilets. Let the media capture that it is not only about our allowances but also about the services and even water which Members take in this Assembly.

Hon. Speaker, I want to commend the House and I want to put the office of the Clerk to task to ensure that the welfare of the Members is never been compromised either by the Executive or Clerk's Office. Thank you.

(Applause)

Mheshimiwa Spika wa Muda: Nashukuru viongozi wa walio wengi na wale wa walio wachache kwa kuleta Nyumba hii kwa umoja. Mazungumzo yale yote ambayo mmezungumza, ofisi ya Spika imechukua kwa uzito ambao unatahili na itafikishwa kwa Spika wetu mkuu, Kennedy Ngondi. Tunashukuru sana kwa kuweza kutuletea akida inayetosha. Kwa wale ambao wanaweza kosa kujua, kama Madam Perpetua, akida ni quorum.

Namwita Mwenyekiti wa Kamati ya Environment and Natural Resources to respond to Statement requested by Hon. Peter Mwangi, MCA regarding the County plans on mitigation of effect of climate change.

RESPONSE TO A STATEMENT REGARDING THE COUNTY PLANS ON MITIGATION OF EFFECTS OF CLIMATE CHANGE

Hon. Kamau Fiunifiu: Hon. Speaker, this is a response to Statement requested by Hon. Peter Mwangi, MCA from the Chairperson of Sectoral Committee on Environment and Natural Resources.

Hon. Speaker, on Thursday 3rd November 2022, Hon. Peter Mwangi MCA rose on the floor of the Assembly pursuant to Standing Order 47 (2) (c) and requested for Statement from Chairperson of Sectoral Committee on Environment and Natural Resources regarding the County plans on mitigation of effects of climate change.

In the Statement, the Member requested that the Chairperson should inquire into and report on:

1. The measures that the sector has put in place to curb and mitigate emission of greenhouse gases and mitigate effect of global warming and climate change; and
2. Measures the County has put in place to regulate the factories and emitting the gases and specific roles the factories are playing towards mitigating the emissions if any.

Hon. Speaker, the Committee wrote to the County Executive Committee Member responsible for Environment, Water Energy and Natural Resources on 22nd November 2022 requesting the CEC Member to furnish the Committee with response to the Statement and inviting him to a meeting of the Committee on Wednesday 30th November 2022. The purpose of the meeting was to enable the CEC Member to furnish the Committee with response to the Statement requested by the Member.

In this regard, Hon. Speaker, I wish to report to the Assembly as follows:

The measures that the sector has put in place to curb and mitigate emission of greenhouse gases and mitigate effect of global warming and climate change;

Hon. Speaker, the Committee was informed that:

- a. Governance: The sector in the process of affirming itself to the commitment of enabling climate implementation. The programs went through the cabinet and establishes a climate directorate, and incorporate climate change into the sector of Environment. The Sector has a substantive deputy director who will be in charge of aligning, developing and implementing and mainstreaming climate resilience policies, plans and strategies into county government development plans and programmes.

Mheshimiwa Spika wa Muda: Wajumbe, nawaomba msiondoke. Kama Majority Leader na Majority Whip bado wako kwa Assembly, hamwezi ondoka mbele yao. Mheshimiwa Brian, please. We have a very serious motion ahead of us, please Members.

(Applause)

Hon. Kamau Fiunifiu: Thank you, Hon. Speaker for that direction. It is good we encourage Brian to be coming to the Assembly, he was nominated to represent young people and young people in this Assembly are suffering. Thank you, Hon. Speaker.

- b. Policy: The directorate developed and launched Nairobi City County Government Climate Change Action Plan in mid-2022 and is in the process of implementing the action plan which will lead to mitigation of greenhouse gases from the various sources

The Directorate also initiated through partnership with World Bank the process of developing the legal framework for climate change which sets space for self-source County climate change funds financing and attract external financing for projects aimed at mitigating and adapting to climate change needs.

The policy will see the County Government allocate 1.2% 2.0% of the county's budget towards climate change interventions. The fund will also see the establishment of Wards climate change committees who shall be in the forefront championing on climate change mitigations and adaptation measures.

The Directorate is also working with partners to reduce greenhouse gas emissions especially on climate clean cooking gas by advocating for change from fossil fuels to clean energy. Koko Networks Company is in the forefront in promoting the use of clean cooking gas

The sector has also implemented green projects on Uhuru Park. City Park. Jeevanjee Central Park Kangundo Road market. Fire station. Michuki Park and all Hospitals previously done by NMS approximately 24,000 m² The Directorate has also planted trees in open spaces approximately 100,000 seedlings during its monthly clean ups an initiative which not only rids city of accumulated illegal garbage but also reduces greenhouse gases.

Measures the County has put in place to regulate the factories emitting the gases and the specific roles the factories are to play towards mitigating the emissions

Hon Speaker the Committee was informed that:

The sector in partnership with the United Nation Environment Programme (UNEP) in the process of developing the regulations which shall support enforcement of air pollution, building scientific evidence is key element in air quality management because air monitoring is complex Through partnership with UNEP Stockholm Environment Institute (SEI): C40 Cities leadership group World Resources Institute (WRI) the Directorate have initiated Air quality action working oversee capacity building of the City on Air quality monitoring.

The program has seen installation of over 25 low-cost sensors across the City aimed at building evidence towards air quality monitoring, promoting citizens' awareness and supporting data driven air quality policy formulation. The sector through the air quality working group will also conduct sensitization workshops on industries so as to raise awareness on air pollution, thus increases their level of compliance on emissions and self-regulation.

Hon. Speaker, Hon. Peter Mwangi was invited to the Committee's meeting and was satisfied with the response forwarded by the County Executive Officers from the Environment and Natural Resources Sector.

Hon. Speaker, a copy of the detailed response has been given to Hon. Peter Mwangi who requested for the statement and a further copy is hereby attached to this report.

Hon. Speaker, I beg to lay this response. Thank you.

Hon. Temporary Speaker: Thank you very much, Chairman for that comprehensive report. I now call Mheshimiwa Peter Mwangi to tell us whether he is satisfied or not. Leadership, please note, a Member requests for a Statement but when the report comes, he is not available. Hon. Whip.

Hon. Moses Ogeto: Hon. Speaker, thank you so much, you have set a good precedence. I am requesting you to go and consult widely with the Speaker. If a Member is not before the House, then that statement should not be read. This is because it is for his consumption and his residents. Else, it will become vague before this House. I would wish to come tomorrow with another ruling that in any case, this Member is not available, then the same statement should not be read. Thank you, Hon. Speaker.

Hon. Temporary Speaker: Thank you very much. Minority Whip.

Hon. Mark Mugambi: I concur with my counterpart, Mheshimiwa Ogeto. This also goes to your earlier message that you read to the plenary, that no committee should be attended during the Assembly sittings. You realize we have Planning Committee that is in Mombasa. We have been having that problem. Let it remain that no Committee shall attend either the Assembly or Executive retreat during Assembly days. Let retreats begin, as the norm as it has been, from Thursday evening until the weekend. By Monday all [Members] are here, on Tuesday Members are present for plenary and with that, we will not have issues of quorum and of Members raising statements and are not available.

We also recommended that it should be a norm that every chair and vice chair of any committee should always be in the plenary and I hope that we will follow up on that because it is not working. We had also dedicated the front rows to the chairs and vice chairs and we request the clerk to have them marked so that we can know who is in and who is not. Thank you.

Hon. Temporary Speaker: Thank you very much leadership. The House is very well guided. Chairman Environment?

Hon. Kamau Fiunifiu: Thank you, Speaker. As far as Hon. Peter Mwangi is concerned, he has consented to the statement and is satisfied with it. We talked a while back and he is happy with it.

Hon. Temporary Speaker: Mheshimiwa Hamisi, we are not allowing anybody out.

Hon. Kamau Fiunifiu: Hon. Speaker, Hon. Peter Mwangi was invited to the committee meeting and was satisfied with the response. I will therefore be reading out the statement as a matter of record so that it goes on record in the Assembly. Thank you Hon. Speaker.

Hon. Temporary Speaker: Thank you very much Chairman. Clerk

MOTION

CONTROL OF NOISE POLLUTION FROM BARS, NIGHTCLUBS AND RELIGIOUS BUILDINGS

Hon. Temporary Speaker: I call upon Hon. Davidson DNG.

Hon. Davidson Ngibuini: Thank you, Hon. Speaker for this opportunity. I rise to move the following Motion:

THAT, aware that paragraph 3 of Part Two of the Fourth Schedule of the Constitution of Kenya, 2010 provides for the functions and powers of County Government on control of air pollution, noise pollution, and other public nuisances; further aware that the County Assembly passed the Nairobi City County Public Nuisance Act, 2021 which provides for the control of public nuisance within the County, Section 20 of the Act

provides that a person shall not upon other premises play, operate, cause or allow to be played or operated, any musical instrument, wireless, gramophone, amplifier or similar instrument thereby making, causing or authorizing noise to be made which is loud and continuous or repeated as to constitute a nuisance to the occupants or dwellers of any premises in the neighborhood or to passersby on the street; concerned that in recent years there has been an upsurge in noise pollution especially from bars, nightclubs and religious buildings near residential areas which has caused discomfort and lack of peace among residents; further concerned that such noise has health effects which include but are not limited to impairing cognitive functioning in children, affecting people's sleep and concentration levels, as well as biological stress among others; acknowledging that the National Environment Management Authority developed the Environment Management and Coordination (Noise and Excessive Vibration Pollution Control) Regulations, 2009 that prohibit the production of loud, unreasonable, unnecessary or unusual noise which annoys, disturbs, injures or endangers the comfort, repose, health or safety of others and the environment; further acknowledging that Paragraph 10 of Part Two of the Fourth Schedule of the Constitution requires the County to implement specific national government policies on environmental conservation, this Assembly resolves that the County Executive to:- 1. Implement all the legislations both at the County and National Levels on noise pollution to control all forms of public nuisance which has resulted in public outcry; 2. Develop regulations on noise mitigating measures pursuant to provisions of Section 35 of the Nairobi City County Public Nuisance Act, 2021 to curb all forms of noise pollution in residential areas in the County; and 3. Mandate proprietors to effect and install noise reduction and containment measures such as soundproofing, cut-offs, installing glass shields, repositioning of speakers and internal self-regulation mechanisms to minimize noise within the County

Hon. Speaker, before I ask for a seconder. Allow me to state that the issue I seek to raise in this motion is to provide a solution that will allow for coexistence amongst all affected parties. On one hand, we appreciate the role that these bars, nightclubs and religious buildings play in our society. The roles are absolutely critical and they must be allowed to continue to exist. On the other hand, Nairobians have a right to peace of mind, a safe living environment and freedom from nuisance and disturbance and as such, this Assembly needs to chart a way forward for the city of Nairobi to allow all parties to coexist amicably without the breach of peace and the right of one person begins where the next person ends.

Hon. Speaker, as I move this motion, allow me to categorically state that as the only published artist and entertainer in this 3rd Assembly, I understand what close of such businesses would do in case this was the reality. We saw this during the Covid 19 lockdown, I participated in the 'Unlock our Country movement'. I chaired the 'One Voice One People' and ensured that the then precedence returned operating hours from 8pm to 10pm which allowed people to continue earning a living and tens of thousands got their jobs back.

Hon. Speaker, as I conclude, if nothing is done in law and regulation to tackle noise pollution from these bars, nightclubs and religious buildings then they will forever be in threat of closure by the County Executive as we saw last year. We do not want to see a situation where bars can be closed via a gubernatorial declaration. That cannot be the way of order and dignity.

Therefore, my proposed solutions are that once these regulations are done and put in place, then we will have order and dignity. In the words of the Governor, "*wapunguze mziki*" is to provide technical expert

suggestions to the same and as I conclude, I ask this humble House to support this motion. I call upon Mheshimiwa Diana Katile to second this motion.

Point of Order

Hon. Temporary Speaker: Point of order under which Standing Order?

Hon. Moses Ogeto: Hon. Speaker, this is a very good Motion. This Assembly has Muslims, Christians and Hindus. I believe, Hon. Speaker that you are a Christian. On this issue of religion, I wish to move an amendment by deleting the word religious buildings---

Hon. Temporary Speaker: With your guidance, I wanted to first propose the Motion

Hon. Moses Ogeto: Hon. Speaker, before the Motion is moved, it is prudent that I say that the word 'religious buildings' be deleted from the whole Motion. I know that Hon. DNG is a Christian like myself. I do not like the nightclubs in my ward, and we want them shut down, but when it comes to Christianity, then it is a different matter. Let the Clerk guide you. Thank you.

Hon. Temporary Speaker: Hold on. There is an amendment that I want to hear from the owner of the Motion.

Hon. Davidson Ngibuini: Thank you, Hon. Speaker. Indeed, I am a Christian and I love the Lord, but my reason for including religious buildings in this Motion is because they had been mentioned by the Governor. The Governor gave a directive mentioning nightclubs, bars and religious buildings and the conversation was why some were being targeted while others were not. If it does please this House that I retract that statement on religious buildings, then I have nothing against it. We can proceed with the proposal with amendments.

Hon. Moses Ogeto: If I may, Hon. Speaker,

Hon. Temporary Speaker: Go on, Hon. Whip,

Hon. Moses Ogeto: Hon. Speaker, I wish to request Hon. DNG to propose for the amendment. Let us find a seconder from him for the adoption that we delete the word 'religious buildings'. Thank you Hon. Speaker.

Hon. Temporary Speaker: Mr. Whip?

Hon. Mark Mugambi: Hon. Speaker, I support my counterpart. On amendments on religious buildings, we cannot shun most of them from being near residential houses. Can they be controlled on timings? We cannot have churches playing praise and worship songs as early as 5 a.m. in the morning. Some churches have been constructed under the power lines and they play praise and worship songs daily till midnight. We should not limit ourselves to clubs alone but bring regulations to churches so that they can behave in a certain manner. With these, I beg to second the amendments of my counterpart.

Hon. Temporary Speaker: There is no debate ongoing.

(Loud consultations)

Hon. Temporary Speaker: This is not about you but the mover of the Motion. Order, Mheshimiwa! Sit down! Order, Hon. Members! Why are you jumping the gun and dancing before the drum is played? Members, you all know that I have to propose and have you discuss.

(A Hon. Member spoke off the record)

Hon. Temporary Speaker: Are you ordering the Speaker?

Hon. Temporary Speaker: Members can now debate. I call upon Mheshimiwa Majority Leader.

Hon. Peter Imwatok: Hon. Speaker, Hon. Robert Alai is a renowned man and a very active member of the other side. For the sanity of this pragmatic motion by my brother DNG, I listened through word for word the Motion urging the county to implement national regulations, which is not a devolved function. To make this work I want to implore to him to hold onto the Motion and have it modified so that when he brings it back to the House then it gets the support of most of the members rather than placing it before a butcher who will to butcher it before recognizing what it carries. My advice is that you refine it and bring it back to the Assembly.

Hon. Temporary Speaker: Majority Leader has raised a fundamental issue yet we were on the proposal of the amendment. I request that we debate on the amendment first. Minority Leader.

Hon. Mark Mugambi: Speaker, I think that the Majority Leader is in order. I think that we do not need to proceed with the amendments because he has advised the mover the retreat the Motion so that he can be guided on the same rather than exposing himself to the cabal that is eagerly awaiting to butcher his Motion. Thank you, Hon. Speaker.

(Hon. Robert Alai spoke of the record)

Hon. Temporary Speaker: Mheshimiwa Alai, you are out of order. Mheshimiwa Alai

Hon. Robert Alai: Mr. Speaker, you are setting a very bad precedent in this House.

Hon. Temporary Speaker: Are you seconding with amendments?

Hon. Robert Alai: Mr. Speaker, I ask---

Hon. Temporary Speaker: It is you who is setting a very bad precedence

Hon. Robert Alai: I ask to be given time.

Hon. Temporary Speaker: Are you seconding the amendment?

Hon. Robert Alai: Mr. Speaker---

Hon. Temporary Speaker: If you are not seconding the amendment then sit down

Hon. Robert Alai: Mr. Speaker, I rose on a point of order.

Hon. Temporary Speaker: Mr. Alai, with all due respect, sit down so that we have a seconder for the amendments so that we discuss

(Loud consultations)

Point of Order

Hon. Temporary Speaker: Mheshimiwa, go ahead.

Hon. Kennedy Oyugi: Mr. Speaker, I am rising on point of order under Standing Order 61 (1). Allow me to read.

“Unless otherwise provided in these Standing Orders, any amendment to a Motion which a Member wishes to propose in accordance with these Standing Orders may be moved and, if necessary seconded at any time after the question upon the Motion has been proposed and before it has been put”.

My point of order is that Mheshimiwa DNG's Motion has not been moved and seconded, therefore, you are not in order to allow an amendment. This should only come after moving and seconded. You are out of order. Thank you.

Hon. Temporary Speaker: No! No! You are misleading the House. First, there has to be a Motion on amendment and that is what we are dealing with. It has been seconded. If you want to debate, debate on the Motion because that is water under the bridge. You cannot stand there and imagine that you can educate the Speaker. Hon. Alai, are you speaking on the amendment?

Hon. Robert Alai: Mr. Speaker, stop using dictatorship in the House. We ask to be listened to. You are setting a very bad precedence where you do not want to allow a debate yet you introduce an amendment before being seconded.

Secondly, when you allow other members to call those who disagree with the point on LGBTQ, what kind of precedence are you setting in this House? Mr. Speaker, you are out of order and we ask to be respected as Hon. Members of this House and be accorded time to debate without undue pressure from you. Thank you.

Hon. Temporary Speaker: Let us bring the House to order. The Speaker is advised and Mheshimiwa you are right. Mheshimiwa Katile should have seconded the Motion first so that afterwards we have amendments.

(Loud consultations)

Hon. Temporary Speaker: It is a learning curve. Therefore, I call upon Mheshimiwa Katile to second the Motion

Hon. Mark Mugambi: The Majority Leader has given a proposal to the mover---

Hon. Members: Point of order!

Hon. Mark Mugambi: Hon. Speaker, this is a scenario of hyenas waiting for an antelope to give birth so that they can feast on the new born gazelle. The Majority Leader, using his own wisdom has seen this from a distance and advised my Member. It is prudent if we ask the mover if at all he intends to proceed with the Motion as it is so that the seconder can proceed. Let us first engage the mover before we proceed with the business.

Hon. Temporary Speaker: I have heard you, however, the Standing Orders are very clear that once a mover has tabled a Motion, then he has to be seconded first so that it can be alive to the Assembly. As it is, the Motion is not alive.

Hon. Moses Ogeto: A member may withdraw his Motion.

Hon. Temporary Speaker: He can withdraw the Motion if he so wishes, but the issue at hand is procedural. After Mheshimiwa Katile seconds and I propose the question, move the amendments then Mheshimiwa can take your advice. I noticed there are smart Members in that corner. Kindly reserve your comments now. Mheshimiwa Katile.

Hon. Diana Mwangangi: Thank you, Mr. Speaker. I hope that I will get peace and be protected from the Honorable Members. I will not call them any other name because as far as I know, they are honorable members.

(Applause)

Thank you, Hon. Speaker. I have gone through this Motion and accepted to second it as requested by Hon. DNG. I second it on a very basic reason which is it aims at providing peace in this County. The noise that is made by clubs and some of the religious institutions is not noise that can be sustained if at all we mind the peace of the residents of this County. Some make noise even on the weekdays where children are to wake up and go to school. We should not by any chance hide our heads in the sand and pretend that it is only the bars and clubs that make noise. Some churches I know do control the noise. It does not mean that when we say that religious institutions should be controlled as far as the noise is concerned to mean that we are atheists or not Christians. Some of us were dancers in the Catholic church---

Hon. Temporary Speaker: Madam Katile, you are speaking on the merits of the amendments and not seconding the Motion

Hon. Diana Mwangangi: I am seconding the Motion, Mr. Speaker because this is a Motion that should be supported by the House. Before I got distracted, I was saying that by noting that religious institutions need to be controlled as far as noise levels are concerned does not mean that we are not Christians. However, when I live next to a church that has overnight keshas, my child is not able to do homework, sleep and wake up on time then surely Mr. Speaker that should not be entertained for the sake of us stating that we are Christians. Mr. Speaker, as I second this Motion, I would like to state that we are mindful of the proprietorship interest of the bar owners and churches and we do not want to cartel their development. We just ask for sanity to prevail and with that Mr. Speaker, I beg to second.

(Question proposed)

Hon. Temporary Speaker: Was there an issue Mheshimiwa Whip?

Hon. Moses Ogeto: Thank you, Hon. Speaker. I want to thank Hon. Oyugi for properly juggling us through the standing order. It is not okay for them to shout at you when you have made a ruling but instead consult in low tones. We must respect the Speaker and that is the truth. You cannot challenge the ruling of the Speaker unless while quoting the Standing Orders.

That noted, Hon. Speaker, I wish to propose an amendment to this Motion by deleting the words 'and religious buildings'. The reason why I am doing this amendment is because even when we were at a public baraza at Kilifi---

Hon. Temporary Speaker: Please, Mheshimiwa, I humbly ask you to sit, I will grant you permission after the Hon. Member speaks---

Hon. Moses Ogeto: There was a call from the mosque, we had to keep quiet for three minutes as it was being announced that this was the time for prayer. If we allow the same to go on without been challenged, as a Christian, a Seventh Adventist, this nation and other nations like Syria which have never had a relationship with God have problems.

Hon. Speaker, I do not know whether we have members of LGBTQ in this House, they are people who do not recognize God. When we were taking oath of office here, I did not see any member who did not swear by the Bible or the Quran.

(A Member spoke off record)

Hon. Temporary Speaker: Order! You are not supposed to raise your hands.

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Hon. Moses Ogeto: Hon. Speaker, I am imploring with my Christian and Muslim brothers if they let this Motion to be passed the way it is; then we will see our county officers will be running after our mosques and churches. I request my counterpart, the Minority Whip, to second the deletion amendment of this Motion. Thank you Hon. Speaker.

Hon. Mark Mugambi: Thank you once again, Hon. Speaker. I beg to second my counterpart on the deletion of those words because this is a prayerful nation led by our President H.E William Samoei Ruto. As I support, I would like to ask members to goggle and see what happened to Saulo Paulo three weeks ago. They had a festival where some people in that festival were mocking God. And on the second day of the festival, the act of nature that befell that city, you might think it is a joke but you can check in the social media about the satanic festival that was taking place. Matters religion should be treated with utmost respect and guidance. I therefore, beg to second. Thank you.

(Question of the amendments proposed)

Hon. Peter Imwatok: Hon. Speaker, I want to debate on tis Motion in a very clear conscious as I implore my brother on whether he can pull back this Motion. If it is agreeable, we proceed, if it is not, I will stand before this House either to support or oppose. I believe in one thing, that we must have a bipartisan approach on every issue in this Assembly. We don't need to call each other names because if you do not believe in God, do not force me to believe in God. If you do not believe in God, I cannot force you to believe in God.

Mheshimiwa DNG, I implore you again because this Motion is going to be mutilated in this assembly. Your intentions and the purpose of this Motion are very good. If you wish to refine this Motion, you can take your time and invite the HBC and we can then make you see other things that you cannot see now. Thank you.

Hon. Samson Ooko: Hon. Speaker, thank you for the opportunity. I rise to support the Motion with amendments. Hon. DNG had approached me to support the Motion, but being a new member in this house, it however does not mean that I am foolish, I went through the Motion and advised him as a brother that I would not support the Motion. This is because it is touching on religious matters and secondly, the timelines. If you talk about the noise pollution; is it during the day, during the night or both? It is important to separate the timing may be you are talking about the time when people are tired and want to sleep. During the day people are busy working and may be the noise is part of their job then.

Mr. Speaker, our society is the worst today, many of our kids have ran away from school to do things out there that are not appropriate. The church is the only place that we can run to salvage our society. If you want to tie the hands of churches, I am scare Mr. Speaker. Please Hon. DNG, as we debate this Motion; you are one of the members who I believe are bright in this House, kindly let us respect the word church. You should not be pushed by some of us like myself who go to church that is called Jakanel Ministries to make sure that we push churches out of this conversation. Let us respect our churches and make sure that we give them time to preach, worship so that our kids can change their behaviours and characters.

Hon. Speaker I am supporting this wonderful Motion with amendments. Please my brother, let us remove churches out of this discussion. Thank you, Mr. Speaker.

Hon. Joel Kimanzi: Thank you, Mr. Speaker. I rise to oppose the amendments. It is not about God, but about building churches in places where they are not supposed to. For instance, in my ward, churches are built in the middle of estates. A rental house is changed into a church. At the same time there are people in that area who are supposed to sleep and wake up in the morning to go to work, children are supposed to do their homework in the evenings and go to school in the morning

I want to oppose the amendments, the Motion should be passed the way it is so that we can be able to regulate and also talk to our city planners to re-plan our city again so that churches can be built where there no rental houses. If it is a mosque, it should be one because separating praises and noises, is a very thin line, because you are supposed to go to work in the morning and people are praising God during keshas by beating drums. Hon. Members, it is not about praising God, but praising Him in the right place and a good way. Thank you Mr. Speaker.

Point of information

Hon. Peter Imwatok: Hon. Speaker, I am a bit conflicted, how can religion be not about God? To me, If Hon. DNG could have framed this Motion in a way like; curbing noise pollution in the city, it could have made sense. We cannot mix a devil with Jesus Christ; bring the issue of noise in bars, night clubs and religion together is like mixing devil worshiping and Jesus Christ. This why I am imploring the Hon. member without supporting this amendment, night clubs are dangerous places to be. For some of us as Christians, we cannot participate in mixing God with darkness.

I am imploring Hon. DNG to either pull back this Motion or make sure that his amendment gets through so that we debate this Motion and pass it. I want to urge

Members, if you know you are living in a noisy church, please vacate that building and go to a place where there is no church which is near---

Hon. Temporary Speaker: Thank you. It was a point of information.

Hon. Jeremiah Themendu: Hon. Speaker, I rise to support the amendments because I cannot go against the churches. I support that Hon. DNG goes back and do an amendment for us not be seen as if we are fighting churches, I do not support because I am a Christian. Hon. Speaker protect me from---

Hon. Temporary Speaker: You are protected.

Hon. Jeremiah Themendu: Hon. Speaker, I support the Motion because it is timely and the intention of the Motion is to minimize the noise, it is not to fight the church. I like to praise God whether it is during the night or during the day or even when I a m driving. Thank you.

(Loud consultations)

Hon. Temporary Speaker: The mover to reply.

Hon. Moses Ogeto: Thank you, Hon. Speaker.

(Loud consultations)

Hon. Temporary Speaker: Please sit down, your voice will be heard. We are on amendment.

(Loud consultations)

Hon. Moses Ogeto: Protect me, Hon. Speaker.

Hon. Temporary Speaker: Order! Sit down, you cannot be standing while I am standing. Mheshimiwa Robert Alai, you cannot be standing while the Speaker is standing, these are procedural issues. Serjeant-at-Arms advice the Hon. Member.

Hon. Moses Ogeto: Hon. Speaker, I wish ---

(Loud consultations)

Hon. Temporary Speaker: Mheshimiwa Fiunifiu, please sit down, respect the Speaker.

Hon. Moses Ogeto: Thank you so much, Hon. Speaker. I want to implore you that failed states like Afghanistan, Bangladeshi, Fiji Republic and Chile, they do not believe in God. If we allow people who do not believe in God; atheists, we lose this House. We must protect the churches, even the Hon. Members usually goes to church every Sunday.

Hon. Speaker, with those few remarks, I beg to move.

Hon. Temporary Speaker: Members seated at the back bench have order, I have noticed that we have senior members there. Let us take the Assembly seriously.

*(Question, that the words to be deleted
be deleted, put and agreed to)*

(Debate on the original Motion resumed)

Hon, Members, you can debate the Motion as it has been prescribed. I request that Hon. DNG to say something about the advice he has gotten from the Majority Leader and the rest.

Hon. Davidson Ngibuini: Thank you so much for the opportunity, Hon. Speaker. Indeed, this is a learning curve and we are all leaning. I would like to say that I brought this Motion in good faith, I have nothing against the church, I am a believer. I started doing gospel music in 2003 and I go to church when I can even online I watch Hillsong Church and other churches around the world.

However, I stand guided regarding the amendment, it is welcome. I believe that at the end to the day what I want to do is to ensure that we have regulations that ensure that these establishments are not always at threat of closure. Without regulations - there is a question that has been posed by the Majority Leader on why these regulations have never been implemented before. That is why at any given time, the Governor who is a very good friend of mine and who I support fully, can wake up and say that we are going to close these clubs or that we are going to do this or that, we need order.

We need the regulations. I am open to have the regulations debated, amended and if it is an issue of the national government, I think this can also be amended. We are saying, implement all the legislations both at the county and national levels, so that we do not only zero in on the government of the Nairobi County. Apart from that, I also feel that we should not deny Hon. members a chance to debate; let them debate because this is a solid Motion. We have so many bars in our wards which employ so many people. If they were all closed because they are making noise, we will be crucified for this. That, kwa nini hamkututetea? Kwa nini haukusimama useme hizi bars zisifungwe?

What I have brought are solutions, where we can live amicably between these establishments and the residents who have a right to peace and tranquility. I believe that this need to be debated.

Hon. Temporary Speaker: Mheshimiwa Majiwa, you had an advice to Hon. DNG. You approached the Speaker.

Hon. Geophrey Majiwa: Thank you, Mr. Speaker. However late it is, but I must tell you Mr. Speaker that we have a similar bill pending before the Implementation Committee awaiting regulations; it is called, Public Nuisance Bill. I don't know whether we are doing a similar bill and we have the two or this House is in a business of duplicating bills, I don't understand. You will advise because we have a pending bill.

When H, E the Governor, Sakaja closed the bars, he picked from that bill. I do not think that we are in order to sit here and discuss--- (*technical hitch*) I am afraid as the Chair of the Implementation Committee; it is our responsibility to tell you that we have a similar bill lying in the committee waiting for regulations to take effect. That is the information that I have been wanting to give you so that you can save time in this House, better late than never. Thank you Mr. Speaker.

Hon. Peter Imwatok: My Chair has said what I said needed to be said. Looking at this Motion, thank you Hon. members for amending the Motion, now I can speak about it because I am now speaking directly to the devil. The devil is the bars and night clubs.

Hon. Speaker, in the Committee of Implementation we have a very good tracking system of all bills, Motions, statements, all regulations. As the Chair has put it, Instead of Hon. DNG's Motion retracting us again to start the implementation process for another 90 days by the Executive, those which are there could have been implemented and modify the Motion to tackle the issue of noise by the clubs, not the act or regulations. Because the Executive takes advantage and says the implementation status on every issue passed by the Assembly has to be fast tracked for the first 90 days. If you could refine it in the next one week or two so that the Implementation Committee can give the gist of the regulations, how far the regulations the Executive has done. By putting this, it means that you are trying to start counting again. Which mean we have another three months as the Executive dilly dallies.

Hon. DNG, it is a very good Motion, well done! But in a way it is contradictory to the Implementation Committee's role and work as set in our tracking system of bills and Motions in this assembly. All said and done, I want to say that noise cannot be tolerated especially for those who want to enjoy themselves beyond the wee hours or early in the morning. I want also the mover of the Motion to do and look at the Nuisance Act, read it clearly and note the amendments you can bring to enforce it more because enforcement of this Act is an issue. If you can bring an amendment on this Act based on your Motion, it could add value to this county.

I support the Motion but still requesting you before you take us back as an assembly, retract it so that the Implementation Committee can work on it as it is doing currently as we also first track the other ones.

Hon. Temporary Speaker: Mheshimiwa DNG, please approach the Chair.

(Hon. DNG consulted the Speaker)

Hon. Temporary Speaker: Mheshimiwa, you cannot leave when the Speaker is standing, sit down. Members be patient, we are almost through.

Hon. Davidson Ngibuini: Thank you, Hon. Speaker. Indeed, as a first time MCA, I am learning a lot and I love the engagement and the heated debates in this House. I have been yearning for it, any time that this House is not full; it saddens me. As a first time legislature I have come to legislate, oversight and I would encourage my fellow MCAs to be attending the plenary sessions so that we can debate; we can have banter regarding the issues that are affecting Nairobians.

In the spirit of ensuring that this Motion is not lost in the back and forth, I stand guided. Thank you Majority leader and pursuant to standing order No. 58. I request to withdraw this Motion for further consultation. I will engage the Chairman of the Implementation Committee. I also ask for assistance from the House Business Committee and our Clerks in order to frame this Motion in a manner that is procedural such that we do not waste time going back. At the end of the day we will be able to achieve in terms of ensuring that there is a balance between business operations and peace of mind for the residents at night. Thank you, I yield.

(Applause)

Hon. Temporary Speaker: Hon. Members, pursuant to Standing Order No. 58, the Motion stands withdrawn.

(Motion withdrawn)

ADJOURNMENT

Hon. Temporary Speaker: Members, there being no other business, the House stands adjourned till tomorrow, Wednesday 15th March 2022 at 2.30 p.m. Members of the HBC to meet after this.

The House rose at 4.31 p.m.