



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (FIRST SESSION)

THE SENATE

VOTES AND PROCEEDINGS

SPECIAL SITTING

TUESDAY, DECEMBER 20, 2022 AT 2:30 PM

PRAYER

1. The Senate assembled at thirty Minutes past Two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.

3. **QUORUM IN THE HOUSE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was Quorum, pursuant to Standing Order 40, invited the Clerk to call the Orders of the day.

4. **COMMUNICATION - SPECIAL SITTING OF THE SENATE TO HEAR THE CHARGES ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT OF THE HONOURABLE KAWIRA MWANGAZA, THE GOVERNOR OF MERU COUNTY**

The Speaker conveyed the following Communication from the Chair:–

“Honourable Senators,

I take this opportunity to welcome you to this Special Sitting of the Senate, that is convened on the request of the Senate Majority Leader, pursuant to Standing Order 33 (1) and with the support of the requisite number of Senators. Consequently, vide Gazette Notice No. 15567, dated 16th December, 2022, I appointed today, Tuesday, 20th December, 2022 at 2.30 p.m., as the day for a Special Sitting of the Senate.

In the Gazette Notice, I indicated that the business to be transacted at this Special Sitting shall be the hearing of the charges for the proposed removal from office, by impeachment, of the Honourable Kawira Mwangaza, the Governor of Meru County. As indicated at Order No. 3 in the Order Paper, I shall report to

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the Senate a Message, within the meaning of Standing Order 48, from the Meru County Assembly, on the said matter.

Honourable Senators,

Finally, in accordance with Standing Order 33 (5), the business specified in the *Gazette* Notice, and as outlined in the Order Paper, shall be the only business before the Senate during this Special Sitting, following which the Senate shall stand adjourned until Tuesday, 14th February, 2023 at 2:30 p.m., in accordance with the Senate Calendar.

I thank you.”

5. **MESSAGE FROM HIS EXCELLENCY THE PRESIDENT URGING PARLIAMENT TO CALIBRATE THE BALANCE OF CONSTITUTIONAL POWERS, DEEPEN GOOD GOVERNANCE, ENHANCE INCLUSION IN THE DEMOCRATIC SPACE, STRENGTHEN PARLIAMENTARY OVERSIGHT OF THE EXECUTIVE AND PROMOTE RESPONSIVENESS OF ELECTED REPRESENTATIVES TO CITIZEN ASPIRATIONS**

The Speaker conveyed the following Message from H.E. President:-

“Honourable Senators,

I wish to report to the Senate that I have, pursuant to Standing Order 47 (1) and (3), received a Message from His Excellency the President.

The Message, dated Friday, 9th December, 2022 and communicated by way of a Memorandum addressed to the Speaker of the Senate and the Speaker of the National Assembly, was received on 14th December, 2022 while the Senate was on recess.

The President has, in the Memorandum, urged the two Houses of Parliament to exercise full authority and precisely calibrate the balance of Constitutional Powers, deepen good governance, enhance inclusion in the democratic space, strengthen parliamentary oversight of the Executive and promote the responsiveness of elected representatives to citizen aspirations.

H. E the President specifically seeks the intervention of the Houses of Parliament in regard to –

1. Implementation of the two-thirds Gender Rule;
2. Constituency Development Fund, Senate Oversight and National Government Affirmative Action funds;
3. The position of the Leader of the Official Opposition; and
4. Parliamentary oversight over the Executive.

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Pursuant to Standing Order 47 (3) which states that –

“(3) When a Message from the President is read, the Message shall be deemed to have been laid before the Senate and the Speaker may –

- a) Direct that the Message be dealt with forthwith;*
- b) Appoint a day for consideration of the Message; or*
- c) Refer the Message to the relevant Committee of the Senate for Consideration.*

Honourable Senators,

In this regard, I refer the matter to the Senate Majority Leader for necessary action and further direct the Clerk to circulate to all Senators the detailed Memorandum as received from H. E the President so that you may familiarize yourselves with its contents.

I thank you.”

6. **MESSAGE FROM THE MERU COUNTY ASSEMBLY ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF THE HONOURABLE KAWIRA MWANGAZA, THE GOVERNOR OF MERU COUNTY**

The Speaker conveyed the following Message from the County Assembly of Meru:–

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 48, I received the following Message from the Speaker of the Meru County Assembly regarding the passage, by the County Assembly, of a Motion, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, for the removal from office, by way of impeachment, of Honourable Kawira Mwangaza, the Governor of Meru County. The Message was transmitted to the Senate via a letter signed by the Speaker of the Meru County Assembly, Ref. No. CAM/RES/VOL.V/2, dated 15th December, 2022, and received in my Office on the same day.

Pursuant to Standing Order 48(4) of the Senate, I shall now report the Message to the Senate –

“This is to inform you that on Wednesday, the 14th day of December, 2022, during the Afternoon Sitting of the County Assembly of Meru, vide a Resolution of the Assembly, and pursuant to the provisions of Article 181 of the Constitution of

*Kenya, 2010, Section 33 of the County Governments Act, 2012 as read together with the provisions of Standing Order No. 65 of the County Assembly of Meru Standing Orders, **approved the motion** to remove from office the Governor of Meru County by way of impeachment.*

The purpose of this letter is to therefore inform you of the aforementioned resolution, and to forward the same to your esteemed office in line with the provisions of Section

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33(2) (a) of the County Governments Act, 2012 and Standing Order No. 65 (6) of the County Assembly of Meru Standing Orders for your further action.

Attached herewith please find a schedule containing the bundle of documents/records containing evidence adduced, notes and records of proceedings before the County Assembly for your reference and records.”

Honourable Senators,

As stated in the letter from the Speaker of the County Assembly of Meru, the following documents were forwarded to the Senate, being the record of proceedings of the County Assembly and the evidence adduced in support of the impeachment Motion –

- i) Approved Notice of Motion for the proposed removal from office of the Governor dated 5th December, 2022;
- ii) Order Papers for the County Assembly sittings held on Tuesday 6th December and Wednesday, 14th December, 2022, respectively;
- iii) Certified Hansard Reports of the Assembly Sittings held on Tuesday 6th December and Wednesday, 14th December, 2022;
- iv) Copy of certified signatures of County Assembly Members in support of the impeachment motion against the Governor of Meru County, dated 13th December, 2022;
- v) Copy of roll call vote of Wednesday, 14th December, 2022, on the Motion for impeachment of the Governor of Meru County;
- vi) Copy of a Communication from the Chair issued during the County Assembly sitting held on Wednesday, 14th December, 2022;
- vii) Copy of a letter by M/S. Mutuma Gichuru & Associates Advocates, Ref. No. CAM/MCAs/KM/MGA/2022, dated 13th December, 2022, addressed to the Speaker of the County Assembly of Meru.
- viii) Copies of newspaper advertisements of Wednesday, 7th December, 2022 and copies of invoices for radio advertisement, calling for submission of memoranda on the Notice of Motion for the proposed removal from office of the Governor of Meru County;
- ix) A flash disk containing 20 video clips evidencing the particulars alleged in the Motion as well as voice advertisements on the public participation on the Motion run on *Muuga FM*;
- x) Copy of the report, minutes and other supporting documents of a public hearing meeting for receipt of memoranda on the proposed removal from office of the Governor of Meru County, held on Tuesday, 13th December, 2022;
- xi) Copies of written Memoranda both in support and against, from different sub-counties and regions submitted to the County Assembly during the public participation exercise on the Motion; and
- xii) Booklet of the Third Edition of the Meru County Assembly Standing Orders.

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In terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act, 2012 and Standing Order 80(1)(a) of the Senate Standing Orders, the Speaker of the Senate is required “*within seven days after receiving notice of a resolution from the speaker of a county assembly to convene a meeting of the Senate to hear charges against the Governor.*” As I indicated in my earlier communication, this Special Sitting has been convened to hear charges on the proposed removal from office, by impeachment, of Hon. Kawira Mwangaza, the Governor of Meru County.

Pursuant to Section 33(3)(b) of the County Governments Act and Standing Order 80(1)(a) of the Senate Standing Orders, I hereby proceed to read the charges against the Governor of Meru County, as contained in the Motion of Impeachment by the County Assembly of Meru –

Charge 1: Nepotism, illegal appointments, unlawful dismissals and usurpation of the constitutional and statutory functions of county organs.

The particulars of this allegation include -

- i) Appointment of husband to county offices.
- ii) Roadside appointment of county workers at Timau.
- iii) Roadside appointment of county workers at Nkubu.
- iv) Roadside appointment of county workers at Kianjai.
- v) Establishment of an illegal committee for the Meru Municipality.

Charge 2: Incitement, bullying, vilification and misleading campaigns against other leaders.

The particulars of this allegation include –

- i) Humiliation of the Meru County Assembly Minority Leader.
- ii) Vilification of the Meru County Assembly Minority Whip and other leaders.
- iii) Vilification of the Senator of Meru County.
- iv) Vilification of the Cabinet Secretary for Agriculture.
- v) Vilification of the Member of the National Assembly for Tigania East Constituency.
- vi) Vilification of the Catholic Church and Clergy.

Charge 3: Forceful entry into the County Assembly precincts and mobilisation of unlawful riots against Members of the County Assembly.

The particulars of this allegation are that the Governor–

- i) Forcefully entered the precincts of the County Assembly.
- ii) Falsely accused Members of the County Assembly and other elected leaders of cartelism, blackmail, greed, corruption and intimidation.
- iii) Organised a violent demonstration against the Members of the County Assembly at the Assembly precincts.

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- iv) Addressed a riotous crowd at the precincts of the County Assembly.

Charge 4: Violation of Public Finance Management Laws.

The particulars of this allegation are that the Governor–

- i.) Directed the Meru Teaching and Referral Hospital to spend all revenue at source.
- ii.) Issued purported waivers on fees at the Meru Teaching and Referral Hospital.
- iii.) Directed county officers to participate in advancing the interests of Baite TV, a private media station.

Charge 5: Misconduct relating to the nomination of CECs.

The particulars of this allegation are that the Governor–

- i) Vilified Members of the County Assembly for refusing to approve some nominees to the County Executive Committee.
- ii) Falsely accused Members of the County Assembly of short-changing Casty Micheni and other nominees for appointment to the CEC.
- iii) Illegally instructed Casty Micheni to usurp the statutory functions of the Igoji West Ward retention Enhancement Fund Committee by identifying the persons that would benefit from county bursary funds.
- iv) Failed to submit names of other candidates to the County Assembly for approval for appointment to the CEC.
- v) Reorganized her government to six departments and three CEC Members after the rejection of some nominees, instead of submitting names of other candidates to the County Assembly for approval.
- vi) Swore to appoint to her government and actively work with losers of the 2022 county elections instead of duly elected MCAs to stir wrangles within the Assembly.

Honourable Senators,

In terms of the way forward following the reading of the charges against the Governor, Standing Order 80(1)(b) of the Senate Standing Orders, as read together with Section 33(3)(b) of the County Governments Act, gives the Senate two options on how to proceed with the matter. The Senate may –

- (a) *by Resolution, appoint a Special Committee comprising eleven of its members to investigate the matter; or*
- (b) *investigate the matter in plenary.*

As listed at Order No. 6, in the Order Paper, the Senate Majority Leader will shortly give Notice of Motion for the establishment of a Special Committee and the Motion thereon is listed at Order No. 8. Should this Motion be carried, the Special Committee will be required, under Section 33(4) of the County Governments Act, and Standing Order 80(2) of the Senate, to investigate the matter and to report to the Senate on whether it finds the particulars of the allegations against the Governor to have been substantiated.

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In the event that the Motion for the establishment of a Special Committee does not pass, the fall-back position is that the Senate shall proceed to investigate and consider the matter in Plenary. In this event, I will appoint the dates on which the Senate will sit in Plenary to hear and determine the charges against the Governor.

Honourable Senators,

It is noteworthy, and I wish to emphasize to all Honourable Senators, that when we come to the debate on the Motion for establishment of the Special Committee, debate on the Motion shall be limited to the substance of the Motion, principally, ***whether or not to establish the Special Committee***. It will not be a debate on the substance of the impeachment or its merits, propriety, prudence or even the constitutionality or the legality of the processes that have preceded the submission of this matter to the Senate. It is, therefore, not permissible to deviate to any matters other than the Motion before the Senate.

I also wish to inform Honourable Senators to desist from publicly commenting on the merits or demerits of the impeachment motion before the Senate. Doing so would amount to anticipation of debate which is an infringement of Standing Order 99. Therefore, it shall be out of order, within the meaning of Standing Order 122, for any Senator to make comments, whether written or spoken, in relation to the conduct of the Governor or the impeachment process, which is outside the confines of the impeachment proceedings, as such comments, may prejudice the just outcome of the process.

Honourable Senators,

This is the first impeachment hearing in the 13th Parliament. Such a hearing is one of the most crucial oversight tools and singular roles of the Senate. In undertaking this mandate, the Senate will be sitting as a quasi-judicial body and will conduct investigations into the alleged infractions of the Constitution and the law; and thereafter make its determination in the matter.

I conclude by urging all Honourable Senators to exercise the highest level of responsibility on this matter.

I thank you.”

7. **NOTICE OF MOTION – ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE AND REPORT ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE KAWIRA MWANGAZA, THE GOVERNOR OF MERU COUNTY**

(The Senate Majority Leader)

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on 14th December, 2022, the Meru County Assembly approved a Motion to remove from office, by impeachment, Honourable Kawira Mwangaza, the Governor of Meru County;

AND FURTHER, WHEREAS by a letter Ref. No. CAM/RES/VOL.V/2, dated 15th December, 2022, received in the Office of the Speaker of the Senate on Thursday, 15th December, 2022, the Speaker of the Meru County Assembly informed the

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Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

AND WHEREAS, pursuant to section 33(3)(b) of the County Governments Act, and Standing Order 80(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

NOW, THEREFORE, pursuant to section 33(3)(b) of the County Governments Act, and Standing Order 80(1)(b), the Senate resolves to establish a special committee comprising the following Senators: -

1. Sen. (Dr.) Boni Khalwale, CBS, MP;
2. Sen. Jackson Mandago, EGH, MP;
3. Sen. Karungo Thangwa, MP;
4. Sen. Esther Okenyuri, MP;
5. Sen. Roba Ali Ibrahim, EGH, MP;
6. Sen. Peris Tobiko, CBS, MP;
7. Sen. Eddy Gicheru Oketch, MP;
8. Sen. Joseph Githuku Kamau, MP;
9. Sen. Edwine Sifuna, MP;
10. Sen. Agnes Kavindu Muthama, MP; and
11. Sen. Johnes Mwaruma, MP.

to investigate the proposed removal from office of the Governor of Meru County and pursuant to standing order 80 (2), to report to the Senate, within ten (10) days of its appointment, on whether or not it finds the particulars of the allegations against the Governor to have been substantiated.

8. **MOTION - ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE AND REPORT ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE KAWIRA MWANGAZA, THE GOVERNOR OF MERU COUNTY**

Order read;

Motion made and Question proposed –

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on 14th December, 2022, the Meru County Assembly approved a Motion to remove from office, by impeachment, Honourable Kawira Mwangaza, the Governor of Meru County;

AND FURTHER, WHEREAS by a letter Ref. No. CAM/RES/VOL.V/2, dated 15th December, 2022, received in the Office of the Speaker of the Senate on Thursday, 15th December, 2022, the Speaker of the Meru County Assembly informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

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9. Sen. Edwine Sifuna, MP;
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to investigate the proposed removal from office of the Governor of Meru County and pursuant to standing order 80 (2), to report to the Senate, within ten (10) days of its appointment, on whether or not it finds the particulars of the allegations against the Governor to have been substantiated.

(The Senate Majority Leader)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 84(1) the Speaker ruled that the matter affects counties and voting would be by Delegations; The House proceeded to a Division.

The Speaker directed that electronic voting be taken pursuant to Standing Order 86 and that the division bell be rung for two minutes;

After the expiry of two minutes, the Speaker directed that the bars be drawn and Senators asked to log-in for electronic voting;

The Speaker put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

The results of the Division were as follows: -

AYES – 33

NOES – 2

ABSTENTIONS – 0

AYES

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1. Sen. Abass Sheikh Mohamed
2. Sen. Boy Issa Juma
3. Sen. Cheruiyot Aaron Kipkirui
4. Sen. Chesang Allan Kiprotich
5. Sen. Chute Mohamed Said
6. Sen. Kamau Joseph Githuku
7. Sen. Karungo Thangwa
8. Sen. Kathuri Murungi
9. Sen. Keroche Tabitha Karanja
10. Sen. Khalwale Boni
11. Sen. Kipkiror William Cheptumo
12. Sen. Lelegwe Steve Ltumbesi
13. Sen. Madzayo Stewart Mwachiru
14. Sen. Mandago Jackson Kiplagat
15. Sen. Methu John Muhia
16. Sen. Mungatana Danson Buya
17. Sen. Murango James Kamau
18. Sen. Muthama Agnes Kavindu
19. Sen. Mwaruma Johnes Mwashushe
20. Sen. Mo Fire Gataya Mwenda
21. Sen. Mwinyihaji Mohamed Faki
22. Sen. Nderitu John Kinyua
23. Sen. Ngugi Joe Joseph Nyutu
24. Sen. Ojienda Odhiambo Tom
25. Sen. Oketch Eddy Gicheru

26. Sen. Olekina Ledama
27. Sen. Osotsi Godfrey Atieno
28. Sen. Recha Julius Murgu
29. Sen. Roba Ali Ibrahim
30. Sen. Sifuna Edwine Watanya
31. Sen. Sigei Wakili Hillary Kiprotich
32. Sen. Wamatinga Wahome
33. Sen. Wambua Enoch Kiio

NOES

1. Sen. Cherarkey Samson Kiprotich
2. Sen. Okoiti Andrew Omtatah

Question agreed to**RESOLVED ACCORDINGLY**

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on 14th December, 2022, the Meru County Assembly approved a Motion to remove from office, by impeachment, Honourable Kawira Mwangaza, the Governor of Meru County;

AND FURTHER, WHEREAS by a letter Ref. No. CAM/RES/VOL.V/2, dated 15th December, 2022, received in the Office of the Speaker of the Senate on Thursday, 15th December, 2022, the Speaker of the Meru County Assembly informed the Speaker of the Senate of the approval of the Motion by the County Assembly and

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further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

AND WHEREAS, pursuant to section 33(3)(b) of the County Governments Act, and Standing Order 80(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

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9. Sen. Edwine Sifuna, MP;
10. Sen. Agnes Kavindu Muthama, MP; and
11. Sen. Johnes Mwaruma, MP.

to investigate the proposed removal from office of the Governor of Meru County and pursuant to standing order 80 (2), to report to the Senate, within ten (10) days of its appointment, on whether or not it finds the particulars of the allegations against the Governor to have been substantiated.

And there being no other business on the Order Paper, the Speaker interrupted the proceedings and adjourned the Senate at twenty-six minutes past Six O'clock without Question put, pursuant to the Standing Orders.

9. **SENATE ROSE** - Twenty-Six minutes past Six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Tuesday, February 14, 2023 at 2.30 p.m.*

--X--