



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, AUGUST 14, 2024 AT 2:30 PM

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

3. **QUORUM OF THE SENATE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, directed that the Bell be rung for ten minutes, pursuant to Standing Order 40;

And there being a Quorum before the expiry of the ten minutes;

The Speaker invited the Clerk to call the Orders of the Day.

4. **COMMUNICATION FROM THE CHAIR - CONVENING OF A SPECIAL SITTING OF THE SENATE**

The Speaker conveyed the following Communication from the Chair:-

“Honourable Senators,

I welcome you to this Special Sitting of the Senate. This Special Sitting has been convened to undertake urgent legislative business which requires to be dispensed with.

On the request of the Senate Majority Leader vide letter, Ref. No. SEN/MLS/CORR/010/2024 dated 12th August, 2024, and with the support of the requisite number of Senators, I appointed today, Wednesday, 14th August, 2024, as a day for a Special Sitting of the Senate.

The appointment was made vide Gazette Notice No. 10122 dated 13th August, 2024. In the Gazette Notice, I indicated that the business to be transacted at this Special Sitting shall be hearing of the Charges on the proposed removal from office, by impeachment, of Honourable Kawira Mwangaza, the Governor of Meru County;

Honourable Senators,

In accordance with Standing Order 33 (5), the business specified in the Gazette Notice referred to above and as outlined in the Order Paper, shall be the only business before the Senate during the Special Sitting. At the conclusion of business today, the Senate shall stand adjourned until Tuesday, 3rd September, 2024 at 2:30 p.m., in accordance with the Senate Calendar.

I thank you.”

5. **MESSAGE FROM THE COUNTY ASSEMBLY OF MERU ON THE APPROVAL OF A MOTION FOR THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HER EXCELLENCY HON. 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 I have, pursuant to Standing Order 48 (4) and (6), received a Message from the Speaker of the County Assembly of Meru regarding the removal from office, by way of impeachment, of H.E Hon. Kawira Mwangaza, the Governor of Meru County.

The Message was conveyed to the Senate via a letter dated Friday, 9th August, 2024, signed by the Speaker of the County Assembly of Meru and received in my Office on the same date indicating that the County Assembly had passed the resolution to remove the Governor from office, pursuant to Article 181 (1) (a), (b) & (c) of the Constitution as read together with Section 33 of the County Governments Act and Standing Order 65 of the Standing Orders of the County Assembly of Meru, on the following grounds:-

1. Gross Violation of the Constitution and other laws

The particulars of this allegation are that the Governor-

- (i) violated Articles 10 (2), 27, 41, 47, 73, 232, 235, 236, and 251 of the Constitution by illegally revoking the appointment of CPA Virginia Kawira Miriti as Secretary/CEO of the Meru County Public Service Board, without the requisite vote from the County Assembly, thus usurping the powers of the Assembly;
- (ii) breached sections 10, 15, 19, and 24 of the Public Officer Ethics Act, 2003, sections 3, 7, 8, 9, 10, 11, 13(1)(b), (f), 21, 29, and 52 of the Leadership and Integrity Act, 2012, and section 4 of the Public Appointments (County Assemblies Approval) Act by failing to appoint the Chairpersons of key county boards and allowing unauthorized persons to oversee public funds without proper accountability;

- (iii) refused to implement the recommendations and resolutions of the County Assembly, on the dismissal of the County Secretary, Dr. Kiambi Atheru Thambura and the Chief of Staff, Mr. Harrison Gatobu Nchamba Mbithi for gross violation of the Constitution and other laws and failed to submit a report to the County Assembly on the implementation of the said resolutions of the Assembly in direct violation of Article 183(3) of the Constitution; and
- (iv) illegally dismissed Dr. Ntoiti (CEO of County Revenue Board), Paul Mwaki (CEO of Liquor Board), Kenneth Kimathi Mbae (Managing Director of Meru Microfinance Corporation), and Joseph Kithure Mberia (CEO of MEWASS), contrary to the provisions of the Meru County Revenue Board Act and the Meru County Investment and Development Corporation Act, thereby leading to significant financial penalties by the Employment and Labour Relations Court against the County Government on account of legal costs and damages.

2. Gross Misconduct

The particulars of this allegation are that the Governor-

- (i) misled the public by falsely claiming that Kshs. 86,000,000.00 was raised through a Paybill number after the murder of Daniel Muthiani *alias* Sniper, while the actual amount raised was Kshs. 286,516.00, in violation of the Public Officer Ethics Act and the Leadership and Integrity Act.

3. Abuse of Office

The particulars of this allegation are that the Governor-

- (i) authorized irregular payments of emergency call allowances, to 161 doctors and medical officers using the wrong rates resulting in an overpayment of Kshs. 74,340,000.00 contrary to the Anti-Corruption and Economic Crimes Act, and other relevant laws;
- (ii) used a manual payroll to pay personnel emoluments amounting to Kshs. 102.94 million, contrary to established financial regulations in section 6.7.6 of the County Financial Accounting and Reporting manual;
- (iii) employed a bloated workforce of at least one hundred and eleven (111) personal staff in the office of the Governor, increasing the county wage bill beyond the legal limit, in violation of the Public Finance Management (County Governments) Regulations, 2015; and
- (iv) continued to pay full salary and benefits to a Public Communication Officer accused of murder, in violation of the

Public Service Commission Discipline Manual for the Public Service.

Honourable Senators,

Annexed to the letter conveying the decision of the County Assembly were the following documents:

- (i) Copy of Approved Notice of Motion "the Motion" dated 31st July, 2024 - Laid on the Table of the Assembly on Wednesday, 31st July, 2024 (Afternoon Sitting).
- (ii) Copy of Exhibits - Laid on the Table of the Assembly on Wednesday, 31st July, 2024 (Afternoon Sitting).
- (iii) Order Papers for the Assembly Sittings of Wednesday, 31st July, 2024 (Afternoon Sitting), Tuesday, 6th August, 2024 (Afternoon Sitting) & Thursday, 8th August, 2024 (Morning Sitting).
- (iv) Certified Hansard Reports for the Assembly Sittings of Wednesday, 31st July, 2024 (Afternoon Sitting), Tuesday, 6th August, 2024 (Afternoon Sitting) & Thursday, 8th August, 2024 (Morning Sitting).
- (v) Copy of Letter dated 31st July, 2024 Reference Number MCA/GC/IVOL.I/24 inviting the Governor Meru County to Respond to the Tabled Impeachment Motion.
- (vi) Affidavits of Service:
 - (a) Copy of Affidavit of Service by Mr. Benson Kinyua Ngure serving H.E the Governor Meru County with an invitation Letter and copy of the laid Notice of Impeachment Motion on behalf of the Speaker County Assembly of Meru;
 - (b) Copy of Affidavit of Service by Mr. Joel Maitehia M'Rukunga serving H.E the Governor Meru County with a copy of the laid Notice of Impeachment Motion on behalf of Hon. Zipporah Kinya; and
 - (c) Copy of Letter dated 6th August, 2024 Reference Number MCA/GC/1/VOL.V26 forwarding to H.E the Governor a copy of the laid Report on Public Participation on the Notice of Motion.
- (vii) Certified copy of a Form for Verification of signatures for Members in support of a Motion for Removal of the Meru County Governor by Impeachment dated 8th August, 2024 made Pursuant to the Provisions of Standing Order No. 65 (4).
- (viii) Certified copy of the Roll Call Vote on the Motion for the Impeachment of H.E Governor Meru County held during the Assembly Sitting of Thursday, 8th August, 2024.

- (ix) Documents Tabled During the Debate on the Motion for Removal of the Governor, Meru County by impeachment:
- (a) Appointment Letter for one Matiri Kenneth Mutua dated 13th February, 2023, Reference Number CGM/CPSB/APPT/VOL.3/2023(22);
 - (b) Copy of letter dated 6th August, 2024, Reference Number CAM/GEN/VOL.VII/40;
 - (c) Copy of letter dated 31st July, 2024, Reference Number CGM/CS/CA.023/26 Vo1.3(390);
 - (d) Copy of letter dated 17th July, 2024, Reference Number CAM/GEN/VOL.VII/39;
 - (e) Copy of letter dated 15th July, 2024, Reference Number CGM/CS/CA/VOL.3/023/382;
 - (f) Copy of letter dated 31st August, 2023, Reference Number CAM/GEN/VOL.VI/187;
 - (g) Copy of letter dated 31st August, 2023, Reference Number CAM/GEN/VOL.VI/188;
 - (h) Copy of letter dated 20th July, 2023, Reference Number CAM/GEN/VOL.VI/168; and
 - (i) Copy of letter dated 18th June, 2023, Reference Number CGM/CS/CA/VOL.I/023/17.
- (x) Evidence of Public Participation-
- (a) Jhua technology flash disk 32GB containing Video Annexures evidencing the particulars alleged in the Motion, as well as voice adverts on the public participation on the Motion run on various radio and TV stations.
 - (b) Pictures and videos of the various public participation fora held on Monday, 5th August, 2024 contained in the accompanying flash disk.
 - (c) Copy of Public Participation Report dated 6th August, 2024, and laid on the Table on Tuesday, 6th August, 2024 (Afternoon Sitting).
 - (d) Written/printed memoranda from different Wards and regions submitted to the County Assembly during the public participation exercise on the Motion submitted both in support and against the Motion. The memoranda inclusive of submissions received via email. Minutes, attendance

registration sheets and registration forms for Memoranda of the public participation held on Tuesday 13th December, 2022.

- (xi) Soft copy of the Third Edition Standing Orders of the County Assembly of Meru contained in an accompanying flash disk.

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.*

The Senate Majority Leader will, at an appointed time during this sitting, give a Notice of Motion for the establishment of a Special Committee. 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.

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 the 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 issues other than the Motion before the Senate.

In the meantime, and during the pendency of the Impeachment process in the Senate, I wish to caution 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 fifth impeachment hearing in the 13th Parliament, and the third one involving the Governor in question. 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 on the matter.

As such, this is a reminder that the impeachment hearing is not just a procedural formality but a fundamental process that plays a crucial role in upholding the principles of democracy and good governance. This hearing is one of the most crucial oversight tools and singular roles of the Senate.

Honourable Senators,

Obviously, this matter is one of immense public interest. I wish to emphatically reaffirm that the Senate will deliberate and reach a decision on this case purely based on its merits. The Senate will uphold the integrity of this process by ensuring objectivity and will not be influenced by external pressures or undue influence from parties outside this Chamber.

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

I thank you.”

6. **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 Whip)

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Thursday, 8th August, 2024, 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. MCA/RES/VOL.IV/79, dated 9th August, 2024, and received in the Office of the Speaker of the Senate on Friday, 9th August, 2024, 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;

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. Wakili Hillary Sigei, MP;
2. Sen. Abdul Haji, MP;
3. Sen. Wahome Wamatinga, MP;
4. Sen. David Wafula, MP;
5. Sen. Gloria Orwoba, MP;
6. Sen. Karen Nyamu, MP;
7. Sen. Boy Issa Juma, MP;
8. Sen. Eddy Oketch, MP;
9. Sen. Shakilla Abdalla, MP;
10. Sen. Betty Montet, MP; and
11. Sen. Beatrice Akinyi, 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.

7. **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 Thursday, 8th August, 2024, 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. MCA/RES/VOL.IV/79, dated 9th August, 2024, and received in the Office of the Speaker of the Senate on Friday, 9th August, 2024, 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;

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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4. Sen. David Wafula, MP;
5. Sen. Gloria Orwoba, MP;
6. Sen. Karen Nyamu, MP;
7. Sen. Boy Issa Juma, MP;
8. Sen. Eddy Oketch, MP;
9. Sen. Shakilla Abdalla, MP;
10. Sen. Betty Montet, MP; and
11. Sen. Beatrice Akinyi, 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.

(The Senate Majority Whip)

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 84(1), the Speaker ruled that the Motion does not affect counties;

And the Speaker having ascertained that there was Quorum, pursuant to Standing Order 42 (1);

Question put and **negatived.**

8. **COMMUNICATION FROM THE CHAIR - THE EFFECT OF THE VOTE ON THE MOTION FOR THE 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 Speaker conveyed the following Communication from the Chair: -

“Honourable Senators,

As you may have noticed, the Majority Whip moved the Motion at Order No. 8 on Today’s Order Paper, for the establishment of a Special Committee to investigate the proposed removal from office by impeachment of Hon. Kawira Mwangaza, the Governor of Meru County. The Motion has been negatived.

Honourable Senators,

As I communicated earlier by way of Message, on the resolution of the Meru County Assembly, made on Thursday, 8th August, 2024, for the removal from office, by impeachment of Hon. Kawira Mwangaza, the Governor of Meru County, Section 33(3)(a) of the County Governments Act and Standing Order 80(1)(b) of the Senate, provide that the Senate may-

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

The Motion having been negatived, the route of a Special Committee is abandoned and that now implies that the Senate will investigate the proposed removal from office, by impeachment of Hon. Kawira Mwangaza, the Governor of Meru County in Plenary, pursuant to Section 33(3)(a) of the County Governments Act and Standing Order 80(1)(b)(ii).

Honourable Senators,

At its meeting held today, Wednesday, 14th August, 2024, the Senate Business Committee considered the provisional dates for this investigation in the event that the matter was to be investigated in Plenary. In line with the schedule of activities for an impeachment hearing in Plenary, I hereby give the following directions –

- a. The Clerk to issue Invitations to Appear to the Parties on, Wednesday, 14th August, 2024;
- b. The Parties to file their responses with the Office of the Clerk of the Senate by Saturday, 17th August, 2024, by 5:00 p.m.;
- c. The Clerk to circulate documents received from the Parties, including the Plenary Hearing Programme, to all Honourable Senators by Close of Business on Sunday, 18th August, 2024, by 5:00 p.m.; and
- d. The Senate shall then investigate the matter in Plenary on Monday, 19th August and on Tuesday, 20th August, 2024.

The Senate is accordingly guided. I thank you.”

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

9. **SENATE ROSE** – at twenty six minutes past Four O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Tuesday, September 03, 2024 at 2.30 p.m.*

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