



REPUBLIC OF KENYA
TWELFTH PARLIAMENT
THE SENATE
VOTES AND PROCEEDINGS
SPECIAL SITTING

TUESDAY, JANUARY 28, 2020 AT 2.00 P.M.

1. The Senate assembled at Two O'clock.
2. **HEARING AND DETERMINATION OF THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. FERDINAND NDUNG'U WAITITU BABAYAO, THE GOVERNOR OF KIAMBU COUNTY**

The Senate resumed its consideration of the matter of the proposed removal from office, by impeachment, of Hon. Ferdinand Ndung'u Waititu Babayao, the Governor of Kiambu County, as follows–

a) Application by the Counsel of the Governor

Counsel representing the Governor sought–

- i) Permission to file the Governor's response and certain documents thereto outside the timelines prescribed in the Invitation to Appear;
- ii) A request to have preliminary objections heard first; and
- iii) Permission to summon certain key witnesses.

Upon intervention by Senators in objecting the application for submission of documents outside the timeline, the Speaker ruled that the House should proceed as per the impeachment programme by allowing evidence by the County Assembly.

Further, the Speaker stated that the application sought should be made when adducing evidence by the Governor.

b) Presentation of the case by the County Assembly of Kiambu County

Counsel for the Assembly commenced the presentation of the case of the Assembly, by leading the following witnesses in presenting their testimony before the Senate –

i. Hon. Solomon Kinuthia Wambui, MCA, - Member, Ndenderu Ward, Kiambu County Assembly

The witness took oath and informed the Senate that-

- i) The audited statement of accounts of County Government of Kiambu for the period 2017/2018 lodged at the office of the Auditor General show that as of June 2018 the amount of pending bills stood at Ksh. 2, 316,638,468;
- ii) Between October, 2018 and March 2019, Kiambu County issued an award letter for road tarmacking amounting to Ksh. 3,345,084,300 against an approved development budget of Ksh. 1,126,469,337. Consequently, these pending obligations were not disclosed in the County Fiscal Strategy Paper 2019 thus violating Article 201 (e) of the Public Finance Management Act 2012;
- iii) Failure to establish the County Budget and Economic Forum as stipulated in section 137 of the Public Finance Management Act 2012; as a result, the County Governor has sabotaged public consultation as regards the preparation of County plans and Budgets ultimately violating the provisions of Sections 87, 91 and 115 of the County Governments Act, 2012 as well as Article 10 and 201 (a) of the Constitution that demands involvement of the public in decision making;
- iv) The County Governor committed serious crimes under National Law by violating Article 40 of the Constitution of Kenya 2010 on the protection of every person's right to property and Section 155 of the Land Act, 2012 which bars unlawful acquisition and occupation of property through the forceful dispossession of Mrs. Cecilia Njoki Mbugua, a widow, of two prime plots of land within Thika Municipality;
- v) Hon. Waititu awarded tenders to his immediate family members; and
- vi) Hon. Waititu caused the hiring of employees at Kiambu County without the involvement of County Public Service Board and also causing the stoppage of salaries.

The witness was subsequently cross-examined by Counsels for the Governor and re-examined by Counsel for the County Assembly, following which, the witness was discharged.

ii. Mr. Eric Kelvin Kiriko Mwaura – Legal Advisor to Deputy Governor, Kiambu County Assembly.

The witness took oath and informed the Senate that-

- i.) He became aware of the charge of improper transfer of land levelled against the Governor of Kiambu County, Hon. Ferdinand Waititu on the 22nd September, 2019 via a report issued by the office of the Ombudsman;
- ii.) The complaint with respect to the properties belonging to Cecilia Njoki Mbugua is one of the charges before the Senate;
- iii.) On 30th October, 2019 he wrote to the Commission on Administrative Justice to request for information in respect to properties in Thika that belonged to Cecilia Njoki Mbugua;
- iv.) The Commission of Administrative Justice on investigating the matter directed a reversal of the transfer from Governor Waititu's nominee who it has since been established was his common law wife, back to Cecilia Njoki Mbugua; and
- v.) On investigations by the Commission on Administrative Justice (CAJ), the Governor realized that this transfer of the parcels of land was improper and irregular and agreed to surrender them back to the rightful owner.

The witness was subsequently cross-examined by Counsels for the County Governor and re-examined by Counsel for the County Assembly, following which, the witness was discharged.

And there being no other business for the Afternoon Session, the Speaker adjourned the Senate at twenty five minutes past Four O'clock without Question Put, pursuant to the Standing Orders.

3. **SENATE ROSE** – at twenty five minutes past Four O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, January 29, 2020 at 9.00 a.m.*