



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

WEDNESDAY, JANUARY 29, 2020 AT 2.00 P.M.

1. The Senate resumed 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**

Hearing of the proposed removal from office, by impeachment, of the Governor of Kiambu County resumed, with Counsel for the Governor putting forth the Governor's defence, and arguing on the matters raised in the preliminary objection as was filed;

And Counsel for the Governor having concluded their arguments;

Counsel for the County Assembly, upon invitation by the Speaker, made their closing submissions on behalf of the Assembly;

Thereafter, Counsel for the Governor made their closing submissions on behalf of the Governor, and further invited the Governor to make his closing submissions;

The Governor made his closing submissions;

Thereupon, the Speaker suspended the proceedings of the Senate for ten minutes and directed that, upon resumption, the Senate would proceed to consider, in camera, the evidence adduced and arguments made on behalf of the County Assembly of Kiambu and the Governor of Kiambu County.

3. **SUSPENSION OF THE PROCEEDINGS OF THE SENATE**

The Speaker suspended proceedings of the Senate until Five O'clock.

4. **CONSIDERATION, IN CAMERA, OF THE EVIDENCE ADDUCED AND ARGUMENTS MADE DURING HEARING OF THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF THE GOVERNOR OF KIAMBU COUNTY**

The Senate considered, in camera, the evidence adduced and arguments made by the parties on the proposed removal from office, by impeachment, of the Governor of Kiambu County.

5. **MOTION – EXTENSION OF THE SITTING OF THE SENATE PURSUANT TO STANDING ORDER 31 (3) (a)**

Motion made and Question proposed;

THAT, pursuant to Standing Order 31 (3) (a), the Senate resolves to extend its sitting until the conclusion of business listed in today's Order Paper.

(The Senate Majority Leader)

Before the Question was put, and pursuant to Standing Order No. 79, the Speaker informed the House that the Motion did not affect Counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

THAT, pursuant to Standing Order 31 (3) (a), the Senate resolves to extend its sitting until the conclusion of business listed in today's Order Paper.

And the deliberations in camera having been concluded at 6.30pm;

6. **HOUSE RESUMED** – at thirty-five minutes past Six O'clock (The Speaker in the Chair)

7. **NOTICE OF MOTION** - (The Deputy Senate Majority Leader)

THAT, WHEREAS, pursuant to Article 181 of the Constitution and section 33 of the County Governments Act, 2012, on 19th December, 2019, the County Assembly of Kiambu approved a Motion “*to remove from office, by impeachment,*” the Hon. Ferdinand Ndung'u Waititu Babayao, the Governor of Kiambu County;

AND FURTHER, WHEREAS by letter dated 20th December, 2019 (Ref. No. CAK/1/19/10/(24) received in the Office of the Speaker of the Senate on 23rd December, 2019, the Speaker of the County Assembly of Kiambu 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 Article 181 of the Constitution, section 33 of the County Governments Act, 2012 and standing order No. 75, the Senate heard the County Assembly on the grounds of removal from office by impeachment of the Governor;

AND FURTHER, WHEREAS pursuant to Article 181 of the Constitution, section 33 of the County Governments Act, 2012 and standing order No. 75, the Senate also heard the Governor of Kiambu County on the grounds of removal from office by impeachment of the Governor;

NOW THEREFORE, pursuant to Article 181 of the Constitution, section 33 of the County Governments Act, 2012 and standing order No. 75, the Senate resolves to remove from office by impeachment, the Hon. Ferdinand Ndung'u Waititu Babayao, the Governor of Kiambu County on the following charges; namely:-

1. Gross Violation of the Constitution of Kenya, 2010, the County Governments Act, 2012, the Public Finance Management Act, 2012 and the Public Procurement and Disposal Act, 2005;
 2. Crimes under the National Law; and
 3. Abuse of Office/Gross Misconduct.
8. **MOTION ON REMOVAL FROM OFFICE, BY IMPEACHMENT, OF THE HON. FERDINAND NDUNG'U WAITITU BABAYAO, THE GOVERNOR OF KIAMBU 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, 2012, on 19th December, 2019, the County Assembly of Kiambu approved a Motion "*to remove from office, by impeachment,*" the Hon. Ferdinand Ndung'u Waititu Babayao, the Governor of Kiambu County;

AND FURTHER, WHEREAS by letter dated 20th December, 2019 (Ref. No. CAK/1/19/10/(24) received in the Office of the Speaker of the Senate on 23rd December, 2019, the Speaker of the County Assembly of Kiambu 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 Article 181 of the Constitution, section 33 of the County Governments Act, 2012 and standing order No. 75, the Senate heard the County Assembly on the grounds of removal from office by impeachment of the Governor;

AND FURTHER, WHEREAS pursuant to Article 181 of the Constitution, section 33 of the County Governments Act, 2012 and standing order No. 75, the Senate also heard the Governor of Kiambu County on the grounds of removal from office by impeachment of the Governor;

NOW THEREFORE, pursuant to Article 181 of the Constitution, section 33 of the County Governments Act, 2012 and standing order No. 75, the Senate resolves to remove from office by impeachment, the Hon. Ferdinand Ndung'u Waititu Babayao, the Governor of Kiambu County on the following charges; namely:-

1. Gross Violation of the Constitution of Kenya, 2010, the County Governments Act, 2012, the Public Finance Management Act, 2012 and the Public Procurement and Disposal Act, 2005;
2. Crimes under the National Law; and
3. Abuse of Office/Gross Misconduct.

(The Senate Majority Leader)

Debate arising;

There being no other Senator wishing to contribute;

The Mover replied;

Before the Question was put, and pursuant to Standing Order No. 79, the Speaker informed the House that the Motion affected counties and voting would be by Delegations and, further, that the House would vote on each of the charges separately, pursuant to the Standing Orders.

The Speaker directed that electronic voting be taken pursuant to Standing Order 81 (1) and that the Division Bell be rung for two minutes.

After the expiry of two minutes, the Speaker requested Senators to log-in using their cards.

CHARGE 1: Gross Violation of the Constitution of Kenya, 2010, the County Governments Act, 2012, the Public Finance Management Act, 2012 and the Public Procurement and Disposal Act, 2005;

The Speaker put the Question and directed Senators to cast their votes by pressing either the "Yes", "No" or "Abstain" button.

Before the results of the Division were announced and pursuant to the provisions of Standing Order 81 (5), the Speaker allowed one Senator to record his vote verbally.

Thereupon, Sen. Kang'ata Irungu recorded his vote as **"Yes"**

The results of the Division were as follows: -

AYES - 27

NOES - 12

ABSTENTIONS - 0

AYES

1. Sen. Adan Dullo Fatuma
2. Sen. Ali Abdullahi Ibrahim
3. Sen. Boy Issa Juma
4. Sen. Haji Mohamed Yusuf
5. Sen. Kabaka Boniface Mutinda
6. Sen. Kang'ata Irungu – voted verbally
7. Sen. Kajwang' Moses Otieno
8. Sen. Khaniri George
9. Sen. Kibiru Charles Reubenson
10. Sen. Kilonzo Mutula Junior
11. Sen. Kimani Wamatangi Paul
12. Sen. Kirinyaga Ephraim Mwangi Maina
13. Sen. Madzayo Stewart Mwachiru
14. Sen. Malalah Cleophas Wakhungu
15. Sen. Mogeni Erick Okong'o
16. Sen. Moi Gideon Kipsielei Towett
17. Sen. Mwaruma Johnes Mwashushe
18. Sen. Mwinyihaji Mohamed Faki
19. Sen. Ndwiga Peter Njeru
20. Sen. Olekina Ledama
21. Sen. Ongeru Samson Kegengo
22. Sen. Orengo James
23. Sen. Outa Fredrick Otieno
24. Sen. Poghisio Samuel Losuron
25. Sen. Sakaja Johnson Arthur
26. Sen. Wako Sitswila Amos
27. Sen. Wambua Enoch Kiio

NOES

1. Sen. Cherarkey Samson Kiprotich
2. Sen. Cheruiyot Aaron Kipkirui
3. Sen. Hargura Godana
4. Sen. Kamar Margaret Jepkoech
5. Sen. Kihika Susan Wakarura
6. Sen. Langat Christopher Andrew
7. Sen. Linturi Franklin Mithika
8. Sen. Loiptip Anuar
9. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
10. Sen. Murkomen Onesimus Kipchumba
11. Sen. Nderitu John Kinyua
12. Sen. Wetang'ula Moses Masika

Question - agreed to.

CHARGE 2: Crimes under the National Law;

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

Before the results of the Division were announced and pursuant to the provisions of Standing Order 81 (5), the Speaker allowed two Senators to record their votes verbally.

Thereupon, Sen. Kang’ata Irungu recorded his vote as **“Yes”** and Sen. Kihika Susan Wakarura recorded her vote as **“No”**-

The results of the Division were as follows:-

AYES - 28

NOES - 11

ABSTENTIONS - 0

AYES

1. Sen. Adan Dullo Fatuma
2. Sen. Ali Abdullahi Ibrahim
3. Sen. Boy Issa Juma
4. Sen. Haji Mohamed Yusuf
5. Sen. Kabaka Boniface Mutinda
6. Sen. Kamar Margaret Jepkoech
7. Sen. Kang’ata Irungu – voted verbally
8. Sen. Kajwang’ Moses Otieno
9. Sen. Khaniri George
10. Sen. Kibiru Charles Reubenson
11. Sen. Kilonzo Mutula Junior
12. Sen. Kimani Wamatangi Paul
13. Sen. Kirinyaga Ephraim Mwangi Maina
14. Sen. Madzayo Stewart Mwachiru
15. Sen. Malalah Cleophas Wakhungu
16. Sen. Mogeni Erick Okong’o
17. Sen. Moi Gideon Kipsielei Towett
18. Sen. Mwaruma Johnes Mwashushe
19. Sen. Mwinyihaji Mohamed Faki
20. Sen. Ndwiga Peter Njeru
21. Sen. Olekina Ledama
22. Sen. Ongeru Samson Kegengo
23. Sen. Orengo James
24. Sen. Outa Fredrick Otieno
25. Sen. Poghio Samuel Losuron
26. Sen. Sakaja Johnson Arthur
27. Sen. Wako Sitswila Amos
28. Sen. Wambua Enoch Kiio

NOES

1. Sen. Cherarkey Samson Kiprotich
2. Sen. Cheruiyot Aaron Kipkirui
3. Sen. Hargura Godana
4. Sen. Kihika Susan Wakarura – voted verbally
5. Sen. Langat Christopher Andrew
6. Sen. Linturi Franklin Mithika
7. Sen. Loiptip Anuar
8. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
9. Sen. Murkomen Onesimus Kipchumba
10. Sen. Nderitu John Kinyua
11. Sen. Wetang'ula Moses Masika

Question - agreed to.

CHARGE 3: Abuse of Office/Gross Misconduct

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

Before the results of the Division were announced and pursuant to the provisions of Standing Order 81 (5), the Speaker allowed one Senator to record his vote verbally.

Thereupon, Sen. Kang'ata Irungu recorded his vote as **“Yes”**-

The results of the Division were as follows:-

AYES -28

NOES - 11

ABSTENTIONS - 0

AYES

1. Sen. Adan Dullo Fatuma
2. Sen. Ali Abdullahi Ibrahim
3. Sen. Boy Issa Juma
4. Sen. Haji Mohamed Yusuf
5. Sen. Kabaka Boniface Mutinda
6. Sen. Kamar Margaret Jepkoech
7. Sen. Kang'ata Irungu – voted verbally
8. Sen. Kajwang' Moses Otieno
9. Sen. Khaniri George
10. Sen. Kibiru Charles Reubenson
11. Sen. Kilonzo Mutula Junior
12. Sen. Kimani Wamatangi Paul
13. Sen. Kirinyaga Ephraim Mwangi Maina
14. Sen. Madzayo Stewart Mwachiru
15. Sen. Malalah Cleophas Wakhungu

16. Sen. Mogeni Erick Okong'o
17. Sen. Moi Gideon Kipsielei Towett
18. Sen. Mwaruma Johnes Mwashushe
19. Sen. Mwinyihaji Mohamed Faki
20. Sen. Ndwiga Peter Njeru
21. Sen. Olekina Ledama
22. Sen. Ongeru Samson Kegengo
23. Sen. Orengo James
24. Sen. Outa Fredrick Otieno
25. Sen. Poghio Samuel Losuron
26. Sen. Sakaja Johnson Arthur
27. Sen. Wako Sitswila Amos
28. Sen. Wambua Enoch Kiio

NOES

1. Sen. Cherarkey Samson Kiprotich
2. Sen. Cheruiyot Aaron Kipkirui
3. Sen. Hargura Godana
4. Sen. Kihika Susan Wakarura
5. Sen. Langat Christopher Andrew
6. Sen. Linturi Franklin Mithika
7. Sen. Loitiptip Anuar
8. Sen. Seneta Mary Yiane – voted on behalf of Kajiado County Delegation
9. Sen. Murkomen Onesimus Kipchumba
10. Sen. Nderitu John Kinyua
11. Sen. Wetang'ula Moses Masika

Question - agreed to.

RESOLVED ACCORDINGLY

THAT, WHEREAS, pursuant to Article 181 of the Constitution and section 33 of the County Governments Act, 2012, on 19th December, 2019, the County Assembly of Kiambu approved a Motion “*to remove from office, by impeachment,*” the Hon. Ferdinand Ndung'u Waititu Babayao, the Governor of Kiambu County;

AND FURTHER, WHEREAS by letter dated 20th December, 2019 (Ref. No. CAK/1/19/10/(24) received in the Office of the Speaker of the Senate on 23rd December, 2019, the Speaker of the County Assembly of Kiambu 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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the County Assembly on the grounds of removal from office by impeachment of the Governor;

AND FURTHER, WHEREAS pursuant to Article 181 of the Constitution, section 33 of the County Governments Act, 2012 and standing order No. 75, the Senate also heard the Governor of Kiambu County on the grounds of removal from office by impeachment of the Governor;

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1. Gross Violation of the Constitution of Kenya, 2010, the County Governments Act, 2012, the Public Finance Management Act, 2012 and the Public Procurement and Disposal Act, 2005;
2. Crimes under the National Law; and
3. Abuse of Office/Gross Misconduct.

9. **COMMUNICATION FROM THE CHAIR ON THE SENATE RESOLUTION TO REMOVE FROM OFFICE, BY IMPEACHMENT, OF HON. FERDINAND NDUNG'U WAITITU BABAYAO, THE GOVERNOR OF KIAMBU COUNTY**

The Speaker conveyed the following Communication from the Chair-

'Honourable Senators,

The net effect of these votes is that, pursuant to Article 181 of the Constitution, section 33 of the County Governments Act and standing order 75 of the Senate Standing Orders, the Senate has resolved to remove from office, by impeachment, the Hon. Ferdinand Ndung'u Waititu Babayao, the Governor of Kiambu County, and the Governor accordingly ceases to hold office.

I thank you.'

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

10. **SENATE ROSE** - at twenty minutes past nine O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, February 11, 2020 at 2.30 p.m.*

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