



**REPUBLIC OF KENYA**

**THE SENATE**

**TWELFTH PARLIAMENT – FIFTH SESSION**

**SPECIAL SITTING**

**VOTES AND PROCEEDINGS**

**MONDAY, MAY 17, 2021 AT 2.30 P.M.**

1. The Senate assembled at thirty minutes past Two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.
3. **COMMUNICATION FROM THE CHAIR ON CONVENING OF SPECIAL SITTING OF THE SENATE**

The Speaker issued the following communication from the Chair -

“Honourable Senators,

I welcome you to this Special Sitting of the Senate. On the request of the Senate Majority Leader vide letter Ref. No. SEN/SML/CORR, dated 11<sup>th</sup> May, 2021, and with the support of the requisite number of Senators, I appointed today, Monday, 17<sup>th</sup> May, 2021, a day for a Special Sitting of the Senate vide Gazette Notice No. 4695, dated 13<sup>th</sup> May, 2021.

In the Gazette Notice, I indicated that the Business to be transacted at this Special Sitting shall be consideration of the report of the Special Committee established to investigate the proposed removal from office, by impeachment, of the Honourable Mohammed Abdi Mohamud, the Governor of Wajir County.

Honourable Senators,

You will recall that by a letter, Ref. No. SPK/WCA/SENATE/4/2021, dated 28<sup>th</sup> April, 2021, and received in my Office on 29<sup>th</sup> April, 2021, the Speaker of the Wajir County Assembly informed me that at a Sitting of the County Assembly held on Tuesday, 27<sup>th</sup> April, 2021, the County Assembly approved

a Motion, pursuant to Section 33(2) of the County Governments Act, for the removal from office, by impeachment, of Honourable Mohammed Abdi Mohamud, Governor of Wajir County.

In terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act, 2012 and Standing Order 75(1)(a) of the Senate Standing Orders, the Speaker of the Senate, upon receiving notice of the resolution from the Speaker of the Wajir County Assembly, convened a meeting of the Senate on Thursday, 6<sup>th</sup> May, 2021, to hear charges against the Governor.

Consequently, Honourable Senators, the Senate, on Thursday, 6<sup>th</sup> May, 2021, pursuant to Section 33(3)(b) of the County Governments Act, 2012 and Standing Order No. 75(1)(b)(i), by Resolution, established a Special Committee comprising eleven (11) of its Members to investigate the proposed removal from office, by impeachment, of the Governor of Wajir County, and to report to the Senate within ten (10) days of its appointment, on whether it finds the particulars of the allegations to have been substantiated.

Honourable Senators,

As you may be aware, both Section 33(6) of the County Governments Act and Standing Order No. 75(4) provide as follows -

*“If the Special Committee reports that the particulars of any allegation against the governor—*

- (a) have not been substantiated, further proceedings shall not be taken under this section in respect of that allegation; or*
- (b) have been substantiated, the Senate shall, after according the governor an opportunity to be heard, vote on the impeachment charges.”*

The Chairperson of the Special Committee will shortly lay on the Table of the House the Report of the Committee. Once it is laid, no action will be taken on the Report. The Senate will be suspended for thirty minutes in order to allow Senators some time to go through the Report. This is so because at the point at which the Report will be laid, it is not yet known to the House, which of the two procedures provided in Section 33(6) of the County Governments Act and Standing Order No. 75(4) will be applied. Conclusions and/or recommendations contained in the Committee Report will determine the procedure to be applied thereafter.

After Honourable Senators, have had the opportunity of perusing the Report and establishing the findings of the Special Committee, the Senate will reconvene. In the event that the Special Committee reports that any particulars of the allegations have been substantiated, a Motion will be listed for consideration in a Supplementary Order Paper which, once prepared, will be circulated when we resume the sitting. Debate will then ensue in the usual manner and at the conclusion thereof, the Senate will proceed to vote on each of the impeachment charges, after according the Governor the opportunity to be heard.

Honourable Senators,

In this regard, an invitation has been extended to the Honourable Mohammed Abdi Mohamud, Governor of Wajir County, to sit in the Gallery during debate on the Motion. At the appropriate time before I put the Question on the Motion, the Governor, if present, will appear before the Senate and be heard, either by himself or by legal representative.

I wish to inform the Honourable Senators that if the Governor chooses to exercise this right to appear and be heard by the Senate, he shall be heard here, either by himself or his advocate in silence. The Governor's speech shall not be followed by any question or comment and the Senate shall, thereafter, immediately proceed to vote on each allegation found to have been substantiated.

Honourable Senators,

In the event that the Special Committee finds that the charges against the Governor have not been substantiated, further proceedings on this matter shall not be taken. I will give further guidance on how to proceed thereafter.

I thank you.”

4. **PAPER LAID**

The following paper was laid on the Table of the Senate -

Report of the Special Committee on the proposed removal from office, by impeachment, of Honourable Mohamed Abdi Mohamud, the Governor of Wajir County.

*(Chairperson, Special Committee on the Proposed Removal from Office, by Impeachment, of the Governor of Wajir County)*

5. **SUSPENSION OF THE SENATE TO ENABLE SENATORS PERUSE THE REPORT OF THE SPECIAL COMMITTEE ON THE PROPOSED REMOVAL FROM OFFICE BY IMPEACHMENT OF THE GOVERNOR OF WAJIR COUNTY**

The Speaker suspended the Senate at forty minutes past two O'clock, for a period of one hour, to enable Senators peruse the Report of the Special Committee on the Proposed Removal from Office by impeachment of the Governor of Wajir County.

6. **SENATE RESUMED**- at fifty minutes past three O'clock (the Speaker – in the Chair)

7. **COMMUNICATION FROM THE CHAIR ON PROCEDURE TO BE FOLLOWED AFTER TABLING OF THE REPORT OF THE SPECIAL**

**COMMITTEE ON THE PROPOSED REMOVAL FROM OFFICE BY  
IMPEACHMENT OF THE GOVERNOR OF WAJIR COUNTY**

The Speaker issued the following communication from the Chair –

“Honourable Senators,

Welcome back for the resumption of proceedings of this Special Sitting.

I believe that you have now had opportunity to go through the Report of the Special Committee on the Proposed Removal from Office, by Impeachment, of the Governor of Wajir County. As you may have noticed, the Committee has found the allegations in Charge No. 2, namely, Abuse of Office and Gross Misconduct against the Governor of Wajir County **NOT** to be substantiated.

However, one of the allegations, namely, Charge No. 1 on Gross Violation of the Constitution of Kenya, 2010, the County Governments Act, 2012, the Public Procurement and Asset Disposal Act, 2015, and the Public Finance Management Act, 2012, against the Governor of Wajir County to be **SUBSTANTIATED.**

Consequently, Honourable Senators, the procedure to be followed in this case is that set out at Section 33(6)(b) of the County Governments Act and Standing Order No. 75(4)(b), both of which provide as follows: -

*“If the Special Committee reports that the particulars of any allegation against the governor have been substantiated, the Senate shall, after according the governor an opportunity to be heard, vote on the impeachment charges”.*

Honourable Senators,

That being the case, a Supplementary Order Paper has been circulated. The Chairperson of the Special Committee will give Notice of Motion for the Senate to consider and vote on the charge. Debate will then ensue on the Motion in the usual manner and at the conclusion thereof, the Senate will proceed to vote on the impeachment charge, after according the Governor the opportunity to be heard.

A Roll call division will be taken pursuant to Standing Order 83 and for the avoidance of doubt, the Motion before the Senate affects counties and voting will be by delegations.

I thank you.”

8. **NOTICE OF MOTION - THE PROPOSED REMOVAL FROM OFFICE, BY  
IMPEACHMENT, OF HONOURABLE MOHAMMED ABDI MOHAMUD, THE  
GOVERNOR OF WAJIR COUNTY**

(Chairperson, Special Committee on the Proposed Removal from Office, by Impeachment, of the Governor of Wajir County)

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;

AND FURTHER, WHEREAS by letter Ref. No. SPK/WCA/SENATE/4/2021(1), dated Wednesday, 28<sup>th</sup> April, 2021, and received in the Office of the Speaker of the Senate on Thursday, 29<sup>th</sup> April, 2021, the Speaker of the County Assembly of Wajir 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, 2012 and Standing Order 75(1)(b) the Senate, by resolution on Thursday, 6<sup>th</sup> May, 2021 appointed a special committee comprising eleven of its Members to investigate the matter on the proposed removal from office by impeachment of the Governor of Wajir County and to report to the Senate within ten (10) days of its appointment, on whether it finds the particulars of the allegations to have been substantiated;

AND WHEREAS, pursuant to Section 33 (4) of the County Governments Act, 2012 and Standing Order 75 (2), the Special Committee has investigated the matter and tabled its Report today, Monday, 17<sup>th</sup> May, 2021;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 75(4)(b), the Special Committee has found that the particulars of Charge 2 namely, Abuse of Office and Gross Misconduct against the Governor of Wajir County has not been substantiated;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 75(4)(b), the Special Committee has found that one of the particulars of Charge 1 namely, Gross Violation of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012, against the Governor of Wajir County has been substantiated;

NOW THEREFORE, pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 75(4)(b), the Senate, after according the Honourable Mohammed Abdi Mohamud, the Governor of Wajir County, an opportunity to be heard, resolves to impeach the Governor of Wajir County on the ground of Gross Violation of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012.

9. **MOTION - THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE MOHAMMED ABDI MOHAMUD, THE GOVERNOR OF WAJIR 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 Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;

AND FURTHER, WHEREAS by letter Ref. No. SPK/WCA/SENATE/4/2021(1), dated Wednesday, 28<sup>th</sup> April, 2021, and received in the Office of the Speaker of the Senate on Thursday, 29<sup>th</sup> April, 2021, the Speaker of the County Assembly of Wajir 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, 2012 and Standing Order 75(1)(b) the Senate, by resolution on Thursday, 6<sup>th</sup> May, 2021 appointed a special committee comprising eleven of its Members to investigate the matter on the proposed removal from office by impeachment of the Governor of Wajir County and to report to the Senate within ten (10) days of its appointment, on whether it finds the particulars of the allegations to have been substantiated;

AND WHEREAS, pursuant to Section 33 (4) of the County Governments Act, 2012 and Standing Order 75 (2), the Special Committee has investigated the matter and tabled its Report today, Monday, 17<sup>th</sup> May, 2021;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 75(4)(b), the Special Committee has found that the particulars of Charge 2 namely, Abuse of Office and Gross Misconduct against the Governor of Wajir County has not been substantiated;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 75(4)(b), the Special Committee has found that one of the particulars of Charge 1 namely, Gross Violation of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012, against the Governor of Wajir County has been substantiated;

NOW THEREFORE, pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 75(4)(b), the Senate, after according the Honourable Mohammed Abdi Mohamud, the Governor of Wajir County, an opportunity to be heard, resolves to impeach the Governor of Wajir County on the ground of Gross Violation of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012.

*(Chairperson, Special Committee on the Proposed Removal from Office, by Impeachment, of the Governor of Wajir County)*

Rising in his place on a Point of Order pursuant to Standing Order 75 (4) (b), the Senator for Mombasa County (Sen. Mohamed Faki, MP) requested that the Governor of Wajir County be accorded an opportunity to be heard before debate on the Motion.

And the Speaker, acceding to the claim, accorded an opportunity for the Governor of Wajir County to be heard before debate on the Motion.

10. **SUSPENSION OF THE SENATE TO ALLOW THE GOVERNOR OF WAJIR COUNTY TO PRESENT HIMSELF BEFORE THE SENATE**

The Speaker suspended the Senate at twenty-five minutes past five O'clock to allow the Governor of Wajir County time to present himself before the Senate.

11. **SENATE RESUMED** - at six O'clock (the Speaker – in the Chair)

12. **MOTION - THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE MOHAMMED ABDI MOHAMUD, THE GOVERNOR OF WAJIR COUNTY**

After according the Honourable Mohammed Abdi Mohamud, Governor of Wajir County, an opportunity to be heard pursuant to Standing Order 75(4)(b), the Speaker directed that debate on the Motion resumes.

Motion made and Question proposed -

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;

AND FURTHER, WHEREAS by letter Ref. No. SPK/WCA/SENATE/4/2021(1), dated Wednesday, 28<sup>th</sup> April, 2021, and received in the Office of the Speaker of the Senate on Thursday, 29<sup>th</sup> April, 2021, the Speaker of the County Assembly of Wajir 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, 2012 and Standing Order 75(1)(b) the Senate, by resolution on Thursday, 6<sup>th</sup> May, 2021 appointed a special committee comprising eleven of its Members to investigate the matter on the proposed removal from office by impeachment of the Governor of Wajir County and to report to the Senate

within ten (10) days of its appointment, on whether it finds the particulars of the allegations to have been substantiated;

AND WHEREAS, pursuant to Section 33 (4) of the County Governments Act, 2012 and Standing Order 75 (2), the Special Committee has investigated the matter and tabled its Report today, Monday, 17<sup>th</sup> May, 2021;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 75(4)(b), the Special Committee has found that the particulars of Charge 2 namely, Abuse of Office and Gross Misconduct against the Governor of Wajir County has not been substantiated;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 75(4)(b), the Special Committee has found that one of the particulars of Charge 1 namely, Gross Violation of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012, against the Governor of Wajir County has been substantiated;

NOW THEREFORE, pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 75(4)(b), the Senate, after according the Honourable Mohammed Abdi Mohamud, the Governor of Wajir County, an opportunity to be heard, resolves to impeach the Governor of Wajir County on the ground of Gross Violation of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012.

*(Chairperson, Special Committee on the Proposed Removal from Office, by Impeachment, of the Governor of Wajir County)*

Debate arising;

And there being no other Senator wishing to contribute;

The Mover replied;

Before the Question was put and pursuant to Standing Order 79, the Speaker ruled that the Question affects counties;

The House proceeded to a Division;

The Speaker directed that roll call division be taken pursuant to Standing Order 83 (1), and in line with the Guidelines issued by the Speaker for Senate plenary and Committee sittings during the Covid-19 pandemic situation dated 17<sup>th</sup> April, 2020, and that the division bell be rung for ten minutes;

After the expiry of the ten minutes, the Speaker directed that the doors be locked and the bars be drawn;



The names of the Tellers were announced as follows;

1. Sen. Masitsa, Naomi Shiyonga, MP– AYES
2. Sen. Cherarkey, Samson Kiprotich, MP – NOES

The Speaker put the Question and directed the Clerk to call out the names of Senators in alphabetical order;

The results of the Division were as follows: -

**AYES – 25**

**NOES – 2**

**ABSTENTIONS – 4**

**AYES**

1. Sen. Adan, Dullo Fatuma
2. Sen. Ali, Abdullahi Ibrahim
3. Sen. Boy, Issa Juma
4. Sen. Cheruiyot, Aaron Kipkirui
5. Sen. Hargura, Godana – voted virtually
6. Sen. Muthama, Agnes Kavindu - voted virtually
7. Sen. Kamar, Margaret Jepkoech
8. Sen. Khaniri, George
9. Sen. Kibiru, Charles Reubenson – voted virtually
10. Sen. Kimani, Wamatangi Paul
11. Sen. Kirinyaga, Ephraim Mwangi Maina – voted virtually
12. Sen. Langat, Christopher Andrew – voted virtually
13. Sen. Madzayo, Stewart Mwachiru
14. Sen. Mahamud, Mohamed Maalim – voted virtually
15. Sen. Moi, Gideon Kipsielei Towett – voted virtually
16. Sen. Mwangi, Paul Githiomi
17. Sen. Mwaruma, Johnes Mwashushe – voted virtually
18. Sen. Mwinyihaji, Mohamed Faki
19. Sen. Nderitu, John Kinyua – voted virtually
20. Sen. Ndwiga, Peter Njeru – voted virtually
21. Sen. Poghio, Samuel Losuron
22. Sen. Nyamunga, Rose Ogendo – voted virtually on behalf of Kisumu County Delegation
23. Sen. Sakaja, Johnson Arthur – voted virtually
24. Sen. Wambua, Enoch Kiio – voted virtually
25. Sen. Wetang'ula, Moses Masika

**NOES**

1. Sen. Cherarkey, Samson Kiprotich
2. Sen. Murkomen, Onesimus Kipchumba

**ABSTENTIONS**

1. Sen. Kindiki Kithure
2. Sen. Mbogo, George Ochilo Ayacko

3. Sen. Mogeni, Erick Okong'o
4. Sen. Orengo, James

Question agreed to.

**RESOLVED ACCORDINGLY**

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on Tuesday, 27<sup>th</sup> April, 2021, the Wajir County Assembly approved a Motion for the removal from office by impeachment, of the Honourable Mohamed Abdi Mohamud, Governor of Wajir County;

AND FURTHER, WHEREAS by letter Ref. No. SPK/WCA/SENATE/4/2021(1), dated Wednesday, 28<sup>th</sup> April, 2021, and received in the Office of the Speaker of the Senate on Thursday, 29<sup>th</sup> April, 2021, the Speaker of the County Assembly of Wajir 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, 2012 and Standing Order 75(1)(b) the Senate, by resolution on Thursday, 6<sup>th</sup> May, 2021 appointed a special committee comprising eleven of its Members to investigate the matter on the proposed removal from office by impeachment of the Governor of Wajir County and to report to the Senate within ten (10) days of its appointment, on whether it finds the particulars of the allegations to have been substantiated;

AND WHEREAS, pursuant to Section 33 (4) of the County Governments Act, 2012 and Standing Order 75 (2), the Special Committee has investigated the matter and tabled its Report today, Monday, 17<sup>th</sup> May, 2021;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 75(4)(b), the Special Committee has found that the particulars of Charge 2 namely, Abuse of Office and Gross Misconduct against the Governor of Wajir County has not been substantiated;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 75(4)(b), the Special Committee has found that one of the particulars of Charge 1 namely, Gross Violation of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012, against the Governor of Wajir County has been substantiated;

NOW THEREFORE, pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 75(4)(b), the Senate, after according the Honourable Mohammed Abdi Mohamud, the Governor of Wajir County, an opportunity to be heard, resolves to impeach the Governor of Wajir County on the ground of Gross Violation of the Constitution of Kenya, 2010; the County Governments

Act, 2012; the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012.

13. **COMMUNICATION FROM THE CHAIR ON THE SENATE RESOLUTION TO REMOVE FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE MOHAMED ABDI MOHAMUD, THE GOVERNOR OF WAJIR COUNTY**

The Speaker conveyed the following Communication from the Chair-

“Honourable Senators,

The net effect of the vote 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, Honourable Mohammed Abdi Mohamud, Governor of Wajir County. The Governor accordingly ceases to hold office.

I thank you.”

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

14. **SENATE ROSE** - at thirteen minutes past nine O'clock.

**M E M O R A N D U M**

*The Speaker will take the Chair on  
Tuesday, May 18, 2021 at 10:00 a.m.*