



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

SPECIAL SITTING

VOTES AND PROCEEDINGS

MONDAY, JUNE 26, 2023 AT 2:30 PM

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 SENATE**

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 FROM THE CHAIR ON CONVENING A SPECIAL SITTING ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT OF THE HONOURABLE WILLIAM ODUOL, DEPUTY GOVERNOR OF SIAYA COUNTY**

The Speaker conveyed 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/MLS/CORR(4), dated 21st June, 2023, and with the support of the requisite number of Senators, I appointed today, Monday, 26th June, 2023 as a day for a Special Sitting of the Senate vide Gazette Notice No. 8224, dated 22nd June, 2023.

In Gazette Notice, I indicated that the Business to be transacted at this Special Sitting shall be – *the Consideration of the Report of the Special Committee on the Proposed Removal from Office, by impeachment, of the Honourable William Oduol, the Deputy Governor of Siaya County.*

Honourable Senators,

You will recall that by a letter, Ref. No. CASADM/33/04, dated Friday, 9th June, 2023, and received in my Office on Saturday, 10th June, 2023, the Speaker of the Siaya County

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Assembly informed me that at a sitting of the County Assembly held on Thursday, 8th June, 2023, the County Assembly approved 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 William Oduol, the Deputy Governor of Siaya County.

In terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act, and Standing Order 80(1)(a) of the Senate Standing Orders, upon receiving the notice of the resolution from the Speaker of the Siaya County Assembly, during the sitting of the Senate on Thursday, 15th June, 2023, I read the charges against the Deputy Governor.

Consequently, Honourable Senators, the Senate, on Thursday, 15th June, 2023, pursuant to Section 33(3)(b) of the County Governments Act, and Standing Order No. 80(1)(b)(i), by Resolution, established a Special Committee comprising eleven (11) of its Members to investigate the matter of the proposed removal from office, by impeachment, of the Honourable William Oduol, the Deputy Governor of Siaya 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,

For avoidance of doubt, the ten (10) days prescribed by the County Governments Act and Senate Standing Orders lapsed yesterday, Sunday 25th June, 2023. However, Article 259 (7) of the Constitution states as follows-

(7) If, in any particular circumstances, the period of time prescribed by this Constitution ends on a Sunday or a public holiday, the period extends to the first subsequent day that is not a Sunday or public holiday.

This sitting is therefore properly convened, and the Senate is within the statutory timelines to consider this matter.

Honourable Senators,

For your information, both Section 33(6) of the County Governments Act and Standing Order No. 80(4) provide as follows –

“If the special committee reports that the particulars of any allegation against the [Deputy] governor—

- a) have not been substantiated, no further action shall be taken under this section in respect of that allegation; or*
- b) have been substantiated, the Senate shall, after according the [Deputy] governor an opportunity to be heard, vote on the charges.”*

The Chairperson of the Special Committee will shortly lay on the Table of the Senate the Report of the Committee. Once it is laid, Honourable Senators will have time to peruse it. No action will be taken immediately, but the Senate will be suspended for thirty minutes in order to allow Honourable 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 known to the House, which of the two procedures provided in Section 33(6) of the County Governments Act and Standing Order

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No. 80(4) will be applied. 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, in the event that the Special Committee reports that any particulars of the allegations have been substantiated, a Motion will be listed for business in a Supplementary Order Paper which, once prepared, will be circulated when we reconvene after thirty minutes. 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 Deputy Governor the opportunity to be heard.

Honourable Senators,

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

I wish to inform the Honourable Senators that if the Deputy Governor chooses to exercise this right to appear and be heard by the Senate, he shall be heard here, either by himself or his legal representative in total silence. The Deputy 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 Deputy Governor have not been substantiated, further proceedings on this matter shall not be taken, and I will give further guidance on how to proceed.

I thank you."

5. **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 William Oduol, the Deputy Governor of Siaya County.

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

6. **SUSPENSION OF THE SITTING AT FORTY-FIVE MINUTES PAST TWO O'CLOCK**

The Speaker of the Senate suspended the sitting for thirty minutes in order to allow Honourable Senators time to peruse through the Report of the Special Committee on the Proposed Removal from Office, by impeachment, of the Deputy Governor of Siaya County.

7. **SENATE RESUMED-** at Fifteen minutes past three O'clock

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8. **COMMUNICATION FROM THE CHAIR ON THE PROCEDURE TO BE FOLLOWED FOLLOWING TABLING OF THE REPORT OF THE SPECIAL COMMITTEE ON THE PROPOSED REMOVAL FROM OFFICE BY IMPEACHMENT OF THE HONOURABLE WILLIAM ODUOL, THE DEPUTY GOVERNOR OF SIAYA COUNTY**

The Speaker conveyed 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 Honourable William Oduol, the Deputy Governor of Siaya County. As you may have noticed, the Committee has found-

- i. Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid-rigging; and
- ii. Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 – Misleading the public by giving false information.

against the Deputy Governor **SUBSTANTIATED**.

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. 80(4)(b), both of which provide as follows: -

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

Consequently, Honourable Senators, a Supplementary Order Paper has been prepared and circulated. In Order No. 6, the Chairperson of the Special Committee will give a Notice of Motion for the removal from Office, by impeachment, of Honourable William Oduol, the Deputy Governor of Siaya County. The Motion has been scheduled for debate in Order No. 8 of this afternoon’s Supplementary Order Paper. Debate on the Motion will ensue in the usual manner and at the conclusion thereof, the Senate will proceed to vote on the impeachment charges after according the Deputy Governor the opportunity to be heard.

I thank you.”

9. **NOTICE OF MOTION - THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE WILLIAM ODUOL, THE DEPUTY GOVERNOR OF SIAYA COUNTY.**

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

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on 8th June, 2023, the County Assembly of Siaya approved a Motion to remove from office, by impeachment of Honourable William Oduol, the Deputy Governor of Siaya County;

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AND WHEREAS by a letter, Ref: CASADM/33/04, dated Friday, 9th June, 2023 and received in the Office of the Speaker of the Senate on Saturday, 10th June, 2023, the Speaker of the County Assembly of Siaya conveyed the resolution of the County Assembly, removing from office by impeachment of Honourable William Oduol, the Deputy Governor of Siaya County 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) the Senate, by resolution on Thursday, 15th June, 2023 appointed a special committee comprising eleven of its Members to investigate the matter on the proposed removal from office by impeachment of Honourable William Oduol, the Deputy Governor of Siaya 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;

FURTHER WHEREAS, pursuant to Section 33 (4) of the County Governments Act and Standing Order 80 (2), the Special Committee has investigated the matter and tabled its Report today, Monday, 26th June, 2023;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 80(4)(b), the Special Committee has found that the particulars of:-

- i.) Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid-rigging; and
- ii.) Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 – Misleading the public by giving false information.

have been substantiated;

NOW THEREFORE, pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 80(4)(b), the Senate, after according the Honourable William Oduol, the Deputy Governor of Siaya County, an opportunity to be heard, resolves to impeach Honourable William Oduol, the Deputy Governor of Siaya County on the following charges-

- i.) Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid-rigging; and
- ii.) Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 – Misleading the public by giving false information.

10. **MOTION - THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HONOURABLE WILLIAM ODUOL, THE DEPUTY GOVERNOR OF SIAYA 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 8th June, 2023, the County Assembly of Siaya approved a Motion to remove from office, by impeachment of Honourable William Oduol, the Deputy Governor of Siaya County;

AND WHEREAS, by a letter, Ref: CASADM/33/04, dated Friday, 9th June, 2023 and received in the Office of the Speaker of the Senate on Saturday, 10th June, 2023, the

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Speaker of the County Assembly of Siaya conveyed the resolution of the County Assembly, removing from office by impeachment of Honourable William Oduol, the Deputy Governor of Siaya County 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) the Senate, by resolution on Thursday, 15th June, 2023 appointed a special committee comprising eleven of its Members to investigate the matter on the proposed removal from office by impeachment of Honourable William Oduol, the Deputy Governor of Siaya 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;

FURTHER WHEREAS, pursuant to Section 33 (4) of the County Governments Act and Standing Order 80 (2), the Special Committee has investigated the matter and tabled its Report today, Monday, 26th June, 2023;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 80(4)(b), the Special Committee has found that the particulars of:-

- i.) Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid-rigging; and
- ii.) Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 – Misleading the public by giving false information.

have been substantiated;

NOW THEREFORE, pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 80(4)(b), the Senate, after according the Honourable William Oduol, the Deputy Governor of Siaya County, an opportunity to be heard, resolves to impeach Honourable William Oduol, the Deputy Governor of Siaya County on the following charges-

- i.) Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid-rigging; and
- ii.) Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 – Misleading the public by giving false information.

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

Debate arising;

There being no other Senator wishing to contribute;

Mover replied;

Pursuant to Standing Order 80 (4) (b) the Deputy Governor was given an opportunity to be heard before the Senate;

Thereupon, the Deputy Governor chose to be heard through his legal representatives (Mr. Moses Chelang'a, Legal Counsel and Mr. Patrick Baraza, Legal Counsel)

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;

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The Speaker indicated that each of the impeachment charges would be voted on;

The Senate 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 five minutes;

After the expiry of five minutes, the Speaker directed that the doors be closed and the bar 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 **“Aye”, “Noe”** or **“Abstain”** button;

Charge 1: That, Pursuant to Section 33 (6)(b) of the County Governments Act and Standing Order 80 (4) (b), the Senate Resolves to Impeach Hon. William Oduol, the Deputy Governor of Siaya County for Gross Violation of the Constitution and other laws in respect of interference with the procurement process through acts of bid rigging.

Before the results of the Division were announced and pursuant to provisions of Standing Order 86 (5), the Speaker allowed four (4) Senator to record their vote verbally and virtually.

Thereupon, the following senators recorded their votes verbally and virtually as either **“Ayes”** or **“Noes”**-

1. Sen. Kathuri, Murungi- voted No virtually
2. Sen. Mungatana, Danson Buya- voted No virtually
3. Sen. Mwenda, Gataya Mo Fire- voted No verbally
4. Sen. Olekina, Ledama- voted Yes virtually

The results of the Division were as follows: -

AYES - 16 NOES - 27 ABSTENTION - 0

AYES

1. Sen. Boy, Issa Juma
2. Sen. Kajwang', Moses Otieno
3. Sen. Maanzo, Daniel Kitonga
4. Sen. Madzayo, Stewart Mwachiru
5. Sen. Mogeni, Erick Okong'o
6. Sen. Muthama, Agnes Kavindu
7. Sen. Mwaruma, Johnes Mwashushe
8. Sen. Mwinyihaji, Mohamed Faki
9. Sen. Oginga, Oburu
10. Sen. Oketch, Eddy Gicheru
11. Sen. Okoiti, Andrew Omtatah
12. Sen. Olekina, Ledama- voted virtually
13. Sen. Onyonka, Richard Momoima
14. Sen. Osotsi, Godfrey Atieno
15. Sen. Sifuna, Edwine Watanya
16. Sen. Wambua, Enoch Kiio

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1. Sen. Adan, Dullo Fatuma
2. Sen. Cherarkey, Samson
3. Sen. Cheruiyot, Aaron Kipkirui
4. Sen. Chesang, Allan Kiprotich
5. Sen. Chute, Mohamed Said
6. Sen. Ekomwa, James Lomenen
7. Sen. Kathuri, Murungi- voted virtually
8. Sen. Khalwale, Boni
9. Sen. Kipkiror, William Cheptumo
10. Sen. Kisang, William Kipkemoi
11. Sen. Lelegwe, Steve Ltumbesi
12. Sen. Mandago, Jackson Kiplagat
13. Sen. Methu, John Muhia
14. Sen. Mundigi, Alexander Munyi
15. Sen. Mungatana, Danson Buya- voted virtually
16. Sen. Murango, James Kamau
17. Sen. Mwenda, Gataya Mo Fire- voted verbally
18. Sen. Nderitu, John Kinyua
19. Sen. Ngugi, Joe Joseph Nyutu
20. Sen. Ojienda, Odhiambo Tom
21. Sen. Recha, Julius Murgor
22. Sen. Roba, Ali Ibrahim
23. Sen. Seki, Lenku Ole Kanar
24. Sen. Thangwa, Paul Karungo
25. Sen. Wafula, David Wakoli
26. Sen. Wakili, Hillary Kiprotich Sigei
27. Sen. Wamatinga, Wahome

Question negatived.

Charge 2: That, Pursuant to Section 33 (6)(b) of the County Governments Act and Standing Order 80 (4) (b), the Senate Resolves to Impeach Hon. William Oduol, the Deputy Governor of Siaya County for Abuse of Office and Gross Misconduct in respect of Allegation 4, misleading the public by giving false information.

Before the results of the Division were announced and pursuant to provisions of Standing Order 86 (5), the Speaker allowed three (3) Senators to record their vote virtually.

Thereupon, the following senators recorded their votes virtually as either **“Ayes”** or **“Noes”**-

1. Sen. Kathuri, Murungi- voted No virtually
2. Sen. Mungatana, Danson Buya- voted No virtually
3. Sen. Olekina, Ledama- voted Yes virtually

The results of the Division were as follows: -

AYES - 16

NOES - 27

ABSTENTION - 0

AYES

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1. Sen. Boy, Issa Juma
2. Sen. Kajwang', Moses Otieno
3. Sen. Maanzo, Daniel Kitonga
4. Sen. Madzayo, Stewart Mwachiru
5. Sen. Mogeni, Erick Okong'o
6. Sen. Muthama, Agnes Kavindu
7. Sen. Mwaruma, Johnes Mwashushe
8. Sen. Mwinyihaji, Mohamed Faki
9. Sen. Oginga, Oburu
10. Sen. Oketch, Eddy Gicheru
11. Sen. Okoiti, Andrew Omtatah
12. Sen. Olekina, Ledama- voted virtually
13. Sen. Onyonka, Richard Momoima
14. Sen. Osotsi, Godfrey Atieno
15. Sen. Sifuna, Edwine Watenya
16. Sen. Wambua, Enoch Kiio

NOES

1. Sen. Adan, Dullo Fatuma
2. Sen. Cherarkey, Samson
3. Sen. Cheruiyot, Aaron Kipkirui
4. Sen. Chesang, Allan Kiprotich
5. Sen. Chute, Mohamed Said
6. Sen. Ekomwa, James Lomenen
7. Sen. Kathuri, Murungi- voted virtually
8. Sen. Khalwale, Boni
9. Sen. Kipkiror, William Cheptumo
10. Sen. Kisang, William Kipkemai
11. Sen. Lelegwe, Steve Ltumbesi
12. Sen. Mandago, Jackson Kiplagat
13. Sen. Methu, John Muhia
14. Sen. Mundigi, Alexander Munyi
15. Sen. Mungatana, Danson Buya- voted virtually
16. Sen. Murango, James Kamau
17. Sen. Mwenda, Gataya Mo Fire
18. Sen. Nderitu, John Kinyua
19. Sen. Ngugi, Joe Joseph Nyutu
20. Sen. Ojienda, Odhiambo Tom
21. Sen. Recha, Julius Murgor
22. Sen. Roba, Ali Ibrahim
23. Sen. Seki, Lenku Ole Kanar
24. Sen. Thangwa, Paul Karungo
25. Sen. Sen. Wafula, David Wakoli
26. Sen. Wakili, Hillary Kiprotich Sigei
27. Sen. Wamatinga, Wahome

Question negatived.

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11. COMMUNICATION FROM THE CHAIR ON EFFECT OF VOTE TO REMOVE FROM OFFICE BY IMPEACHMENT OF THE HONOURABLE WILLIAM ODUOL, THE DEPUTY GOVERNOR OF SIAYA 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 (8) of the County Governments Act and Standing Order 80 (7) of the Senate Standing Orders, the Senate has failed to remove from office by impeachment, Honourable William Oduol, the Deputy Governor of Siaya County and the Deputy Governor accordingly continues to hold office.

I thank you.”

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

12. SENATE ROSE - at forty-eight minutes past Six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Tuesday, June 26, 2023 at 2.30 p.m.*

--X--