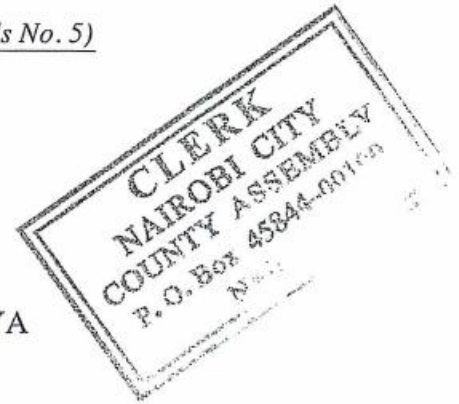


SPECIAL ISSUE

Nairobi City County Gazette Supplement No. 5 (Bills No. 5)



REPUBLIC OF KENYA



**NAIROBI CITY COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 12th May, 2015

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**THE NAIROBI CITY COUNTY WARDS DEVELOPMENT FUND
(AMENDMENT) BILL, 2015**

A Bill for

**AN ACT of the County Assembly of Nairobi City to amend the
Nairobi City County Wards Development Fund Act, 2014.**

ENACTED by County Assembly of Nairobi City as follows—

Short Title

1. This Act shall be cited as the Nairobi City County Wards Development Fund (Amendment) Act, 2015.

Amendment of section 2 of No 1 of 2014

2. Section 2, of the Nairobi City County Wards Development Fund Act, 2014, in this Act referred to as the “principal Act” is amended as follows—

(a) by deleting the definition of the expression “ward fund account”;

Amendment of section 5 of No 1 of 2014

3. Section 5 of the Principal Act is amended as follows—

(a) in subsection 2(a) by deleting the expression “Deputy Chief Officer” and substituting therefore with the word “Director.”

(b) in subsection 2(b) by deleting the expression “Deputy Chief Officer” and substituting therefore with the word “Director.”

Amendment of section 8 of No 1 of 2014

4. Section 8 of the Principal Act is amended as follows:-

(a) in subsection (3) (a) by deleting the expression “after approval by the County Assembly” appearing immediately after the word “committee”;

Amendment of section 16 of No 1 of 2014

5. Section 16 of the Principal Act be deleted;

Amendment of section 17 of No 1 of 2014

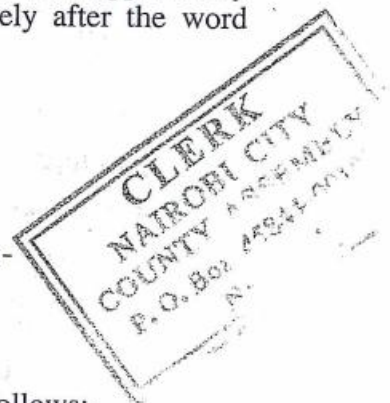
6. Section 17, Principal Act is amended as follows:-

(a) by deleting subsection (2);

Amendment of section 37 of No 1 of 2014

7. Section 36, of the Principal Act is amended as follows:-

(a) by deleting subsection (1)(d);



Amendment of First Schedule (s.6) of No 1 of 2014

8. First Schedule of the Principal Act is amended as follows:-

- (a) subsection 3(1) of the Schedule be amended by deleting the word “eighteen” and substituting thereof with the expression “thirty six.”

Section 2 of No 1 of 2014 which it is proposed to amend—

Interpretation

2. In this Act, unless the context otherwise requires—

“Clerk” means the Clerk of the Nairobi City County Assembly;

“Community” means residents of a particular area or region as a Ward, location or sub – location and having common interests;

“County Management Committee” means the County Wards Development Fund Management Committee established by section 5;

“Fund” means the Ward Development Fund established by section 4;

“Member of the County Executive Committee” means the Member of the County Executive Committee responsible for finance and economic planning;

“Officer Administrating the Fund” means the person appointed as such under section 8;

“officer of the Fund” means the officer seconded by the County Management Committee to the Ward under section 9;

“Ward Development Fund Committee” means the committee established under section 33;

“Ward Fund Account” means the account maintained for every ward in accordance with section 16.

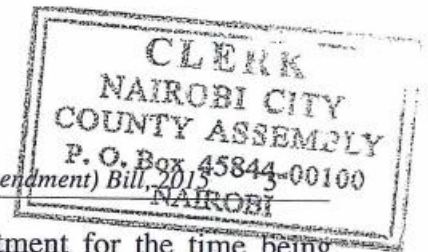
Section 8 of No 1 of 2014 which it is proposed to amend—

Establishment of the County Management Committee

5. (1) There is established a committee to be known as the County Wards Development Fund Management Committee.

(2) The County Management Committee shall consist of—

- (a) the Chief Officer of the County Department for the time being responsible for matters relating to finance and economic planning or a designated alternate not being below the level of Deputy Chief Officer;



- (b) the Chief Officer of the County Department for the time being responsible for matters relating to public works or a designated alternate not being below the level of Deputy Chief Officer;
- (c) the Clerk of the County Assembly or a designated alternate not below the level of Deputy Clerk;
- (d) four persons, qualified in matters relating to finance, accounting, engineering, economics, community development, or law, competitively and transparently recruited and appointed by the Member of the County Executive Committee in accordance with subsection (4) taking into account gender balance and the diversity of the County;
- (e) the Member of the County Executive Committee responsible for legal matters who shall be an ex officio member;
- (f) the Officer Administering the Fund who shall be an ex-officio member.

(3) The Member of the County Executive Committee shall appoint the Chairperson of the County Management Committee from amongst the four persons appointed in accordance with paragraph (d) of subsection (2).

(4) The names and curriculum vitae of the persons competitively and transparently nominated as members of the County Management Committee pursuant to paragraph (d) of subsection (2) shall be submitted to the County Assembly for approval before appointments are made.

Officer Administering the Fund

8. (1) There shall be an Officer Administering the Fund who shall be appointed from the county public service and has—

- (a) at least a university degree in finance, accounting, engineering, economics, community development, law or a related field from a recognized university;
- (b) at least five years working experience in public finance or a relevant field.

(2) The Officer Administering the Fund shall be the chief executive officer of the Fund and Secretary to the County Management Committee and shall subject to the directions of the County Management Committee—

- (a) supervise and control the day to day administration of the Fund;
- (b) be responsible for the day to day management of the affairs and staff in the service of the County Management Committee;

- (c) prepare monthly returns on the movement of funds as appropriate for submission to the County Assembly;
 - (d) keep or cause to be kept proper books of accounts and other books and records related to the Fund;
 - (e) prepare, sign and transmit to the Auditor General accounts of the Fund in accordance with Public Audit Act; and
 - (f) perform any other duties that maybe reasonably assigned to him by the County Management Committee from time to time.
- (3) The Officer Administering the Fund shall—
- (a) be appointed by the Member of the County Executive Committee after approval by the County Assembly;
 - (b) serve a term of four years but shall be eligible for reappointment.

Section 16 of No 1 of 2014 which it is proposed to delete—

Ward Fund Account

16. (1) For the purpose of disbursement of funds under this Act there shall be opened and maintained a Ward Fund Account for every Ward at any commercial bank, approved by the Member of the County Executive Committee into which all funds shall be kept and such an account shall be known by the name of the Ward for which it is opened and each Ward shall maintain only one account.

(2) The bank account opened pursuant to subsection (1) shall be separate from that of the County Treasury.

(3) At least three signatories shall be required for every cheque or instrument for actual payment or withdrawal of funds from a Ward Fund Account and the signing instructions shall be such that there shall be at least one signature of an officer seconded by the County Management Committee and at least two signatures of two members of the Ward Development Fund Committee.

(4) The Officer of the Fund shall hold the authority to incur expenditure of the funds at the Ward Fund Account.

(5) Funds from the Ward Fund Account shall only be withdrawn as disbursements for a particular project in accordance with the provisions of section 11 of the Act.

(6) Every payment or instruction for payment out of the Ward fund account shall be strictly on the basis of a minuted resolution of the Ward Development Fund Committee.

(7) All receipts, savings and accruals to the Ward Fund Account and the balances thereof at the end of each financial year shall be returned to the County Management Committee Fund Account.

(8) All unutilized funds shall remain in the Ward Fund Account and no investment elsewhere shall be permitted, provided that funds meant for a project that is cancelled or discontinued shall be returned to the Fund Account in accordance with section 11 of this Act.

(9) All unutilized funds of the Project Management Committee shall be returned to the Ward Fund account.

(10) Any accruing revenues, interest and liabilities from any Ward Fund Account shall be declared to the County Management Committee together with the annual returns.

Section 17 of No 1 of 2014 which it is proposed to amend—

Record of disbursements to be kept.

17. (1) An accurate record of all disbursements made for projects to every Ward shall be kept and updated every month by the County Management Committee.

(2) The disbursement of funds to the Ward Fund Account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty-five per centum of the annual allocation for the Ward and thereafter the Ward Fund Account shall be replenished in three equal installments at the beginning of the second, third and fourth quarters of the financial year.

(3) The Chairperson of the County Management Committee shall submit an annual report on the activities, operations and expenditure under the Act.

(4) At the end of every financial year the County Management Committee shall submit separate accounts of the wards and the County Management Committee to the Auditor General

Section 37 of No 1 of 2014 which it is proposed to amend—

Quarterly Reports on Projects and Disbursements

36. (1) The County Management Committee shall, on a monthly basis, submit a report to the County Assembly Select Committee detailing—

(a) a summary of the project proposals received from the wards in the preceding month and indicating the approval status of such projects;

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- (b) a summary of the status of disbursements of funds to the wards for that preceding month;
 - (c) a summary of the status of disbursements from the Treasury to the County Account; and
 - (d) any restriction imposed on a Ward Fund Account in accordance with the Act.
- (2) The County Management Committee shall ensure that the list of projects forwarded to it by each ward is, upon approval, funded in accordance with the Act.



FIRST SCHEDULE (s. 6)

**CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY
MANAGEMENT COMMITTEE**

Tenure of Office

1. The Chairperson or a member of the County Management Committee other than *ex-officio* members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two terms;

Vacation of Office

2. (1) A member other than an *ex-officio* member may—

- (a) at any time resign from office by notice in writing to the Member of the County Executive Committee;
- (b) be removed from office by the Member of the County Executive Committee on recommendation of the County Management Committee if the member—
 - (i) has been absent from three consecutive meetings of the County Management Committee without its permission;
 - (ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;
 - (iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
 - (iv) is otherwise unable or unfit to discharge his functions

(2) The Chairperson shall not be removed from office unless such removal is in accordance with sub paragraph (1).

Meetings

3. (1) The County Management Committee shall meet not less than six and not more than eighteen times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding sub paragraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the County Management Committee at any time for the transaction of the business of the County Management Committee.

(3) Unless three quarters of the total members of the County Management Committee otherwise agree, at least fourteen days'

reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the County Management Committee who contravenes subparagraph (1) shall cease to be a member of the County Management Committee upon direction of the Member of the County Executive Committee.

Common Seal

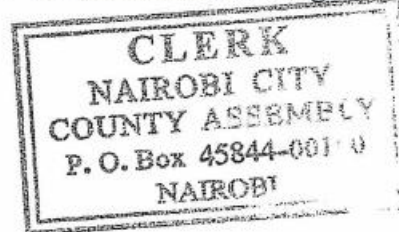
7. (1) The common seal of the County Management Committee shall be kept in such custody as the County Management Committee may direct and shall not be used except on the order of the County Management Committee.

(2) The affixing of the common seal of the County Management Committee shall be authenticated by the signature of the Chairperson, the Chief Executive Officer and one member nominated by the County Management Committee and any document not required by law to be made under seal and all decisions of the County Management Committee may be authenticated by the signatures of the Chairperson, the Officer Administering the Fund and that member nominated by the County Management Committee.

(3) The common seal of the County Management Committee when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the County Management Committee under this section shall be presumed to have been duly given.

Schedule to apply to Ward Development Fund Committees

8. The provisions of this Schedule shall apply to the conduct of the business of the Ward Development Fund Committee but only where no specific provisions have been made in this Act, and only in so far as they do not constitute a contradiction or negation of the provisions of the Act.



MEMORANDUM OF OBJECTS AND REASONS

The principle object of this Bill is to amend the Nairobi City County Wards Development Fund Act, 2014, so as to make it respond to the practical challenges that have arisen out of its enactment and implementation.

Clause 3 seeks to amend the Act to remove the approval of the County Assembly on the Administrator of the Fund designated by the County Executive Committee Member for Finance in accordance with Section 116 of the Public Finance Management Act, 2012.

Clauses 4, 5 and 6 seek to amend the Act so as to remove references to the Ward Fund Account as it has been proposed to be removed from the structure of the Fund.

Dated the 29th April, 2015.

MAURICE GARI OTIENO,
Member of the County Assembly.