

Report laid on 7/12/17  
by Hon. Millicent Mugadi  
for PCA Clerk  
7/12/17

# NAIROBI CITY COUNTY ASSEMBLY



SECOND ASSEMBLY – FIRST SESSION

## THE REPORT OF THE SELECT COMMITTEE ON WARDS DEVELOPMENT FUND

ON

THE INDUCTION WORKSHOP HELD FROM 2<sup>ND</sup> TO 5<sup>TH</sup>  
NOVEMBER, 2017 AT SAWLA LODGE, NAIVASHA

### Induction report

Clerk's Chambers,  
CITY HALL,  
NAIROBI.

Edition: December 2017

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**ABBREVIATIONS**

OOTF	- Officer of the Fund
AIE	- Authority to Incur Expenditure
WDFC	- Wards Development Fund Committee
CWDFMC Committee	- County Wards Development Fund Management Management
COB	- Controller of Budgets



## PREFACE

Hon. Speaker,

The Select Committee on Wards Development Fund is established pursuant to Subsection (5) of Section 35 of the Wards Development Fund Act, 2014 and is mandated, among others, to:-

- a. *Consider and recommend to the County Assembly any matter requiring action by the County Assembly pursuant to the provisions of this Act;*
- b. *Oversee the implementation of this Act and in this respect, shall after every two years submit a report to the County Assembly and where necessary propose any amendments to this Act, in particular with respect to the Quantum of funds repayable into the Fund in accordance with section 4 of the Act;*
- c. *Oversee the policy framework and legislative matters that may arise in relation to the Fund;*
- d. *Continually review the framework set out for the efficient delivery of development programmes financed through the Fund;*
- e. *Consider and report to County Assembly with recommendations, names of persons required to be approved by County Assembly under this Act.*

### Committee Membership

The Committee Membership comprises of:

- |                                     |                   |
|-------------------------------------|-------------------|
| 1. Hon. Patricia Mutheu, MCA        | Chairperson       |
| 2. Hon. Mwaura Samora, MCA          | Vice- Chairperson |
| 3. Hon. Chege Mwaura, MCA           |                   |
| 4. Hon. Peter Warutere, MCA         |                   |
| 5. Hon. Millicent Mugadi, MCA       |                   |
| 6. Hon. Fredrick Njogu, MCA         |                   |
| 7. Hon. Nicholas Okumu, MCA         |                   |
| 8. Hon. Jared Okode, MCA            |                   |
| 9. Hon. Emily Waithaka, MCA         |                   |
| 10. Hon. Naftali Ogola, MCA         |                   |
| 11. Hon. Fuad Hussein Muhammed, MCA |                   |

Hon. Speaker,

Following the approval of schedule of Committees retreats by the Liaison Committee and subsequent approval by the Office of Speaker to sit outside the precincts of the Assembly the Select Committee on Wards Development Fund held its induction workshop from 2<sup>nd</sup> to 5<sup>th</sup> November, 2017. The objectives of the Workshop were were to enable the Committee members to:-

- i. Understand role and place of Committees in the County Assembly;
- ii. Understand;-
  - the role the Committee Chairperson, Vice-Chairperson, Secretariat;
  - the general conduct of the Committee meetings; and
  - the management of an effective Committee;
- iii. understand;-
  - the powers and mandates of the Select Committee on Wards Development Fund and its Legal underpinnings;
  - overview of the Principal Act;
  - The roles of the County Management Committee and Wards Management Committee as enshrined in the Act
  - opportunities and challenges in implementation of the Fund;
  - achieving effective implementation of the Wards Development Fund; and
  - experiences from the Constituency Development Fund.
- iv. Deliberations on the lessons learnt and way forward.

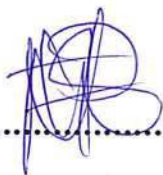
Hon. Speaker,

Members are grateful to the Speaker and the Clerk of the County Assembly for organizing and facilitating the workshop. Members gained the basic concepts that shall set them off as they begin the journey of discharging their mandate. Members also wish to thank the workshop presenter Mr. Benjamin Magut for his insightful presentation.

Hon. Speaker,

It is now my pleasant duty, on behalf of the Committee to present and recommend this report to the County Assembly.

Signed .....



Date .....

5<sup>th</sup>/12/2017

Hon. Patricia Mutheu, MCA, Chairperson of the Select Committee on Wards Development Fund.

## INTRODUCTION

The County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary. Following the approval of schedule of Committees retreats by the Liaison Committee and subsequent approval by the Office of Speaker to sit outside the precincts of the Assembly the Select Committee on Wards Development Fund held its induction workshop from 2<sup>nd</sup> to 5<sup>th</sup> November, 2017. The workshop entailed the overview establishment and role of Committees in achieving the mandate of the County Assembly, legal underpinning of Committees of the Assembly, rationale for Committees in the Assembly, overview of the management and operation of Committees in the Assembly, the powers and mandates of the Select Committee on Wards Development Fund and its Legal underpinnings, roles/duties of Committee Chairperson and Vice-Chairperson, management of Committees, overview of the Principal Act, the roles of the County Management Committee and Wards Management Committee as enshrined in the Act, opportunities and challenges in implementation of the Fund, how to achieve effective implementation of the Wards Development Fund and experiences from the Constituency Development Fund.

### 1.0 Introductory remarks

The workshop was officially opened by a word of prayer by the Chairperson before welcoming participants to the workshop. The Chair urged Members to actively participate in the proceedings to enable them grasp the basics so that they would be able to undertake their legislative and oversight roles effectively.

## PRESENTATIONS BY THE FACILITATOR-MR. BENJAMIN MAGUT

The facilitator submitted that:-

### Overview of role of Committees in achieving the mandate of an Assembly

#### 1.1.1 Legal Underpinning of Committees of the Assembly

The facilitator submitted that:-

Committees in the Assembly are smaller units or groups of Members of the County Assembly that allow the Assembly to perform several functions simultaneously. Committees are capable of:-

- Finding out the facts of a case,
- examining witnesses,
- sifting through evidence, and drawing up reasoned conclusions.
- gathering of evidence from expert groups or individuals.
- 'take Parliament to the people' and allow direct contact between members of the public.
- promote public debate on a subject at issue.

#### *Legal Underpinnings*

The power of the Assembly to appoint committees is derived from:-

- The Constitution – Art. 124, 195
- Enabling Acts – County Government Act, Parliamentary Powers & Privileges Act, WDF Act etc
- The Standing Orders
- Resolutions of the House
- Practice

#### General roles of Committees

The following are the general roles of Committees:-

- Oversight on the Executive.
- Initiating legislative proposals.
- Scrutiny of legislative proposals and Bills
- Conducting investigations and reporting to the plenary for action.
- Reviewing and approving the budget and expenditure.
- Review of audited accounts of county government and public agencies.
- Approval of public appointments
- Approval of county planning and development plans

## 1.2 Overview of the Management of Committees

The presentation covered the role of the Chairperson and Vice-Chairperson of the Committee, attributes of an effective Chairperson and Members of Committee, Managing Members in a meeting and role of the Committee Secretariat.

### 1.2.1 Role of Chairperson of a Committee

- Preside at meetings of the Committee, perform the functions and exercise the powers assigned to the office of the Chairperson by the Committee, resolutions of the Assembly or legislation; and is the spokesperson of the Committee pursuant to Standing Order 172.
- Signs the minutes of the sittings of the Committee after they have been confirmed
- Strives to ensure that a Committee's report is arrived at by consensus.
- Represents the interests of the Committee in the Liaison Committee.
- Signs reports tables and moves the report of the Committee, on behalf of the other Committee Members.

### 1.2.2 Attributes of an effective Chairperson of a Committee

- Sound planning and advance preparations for meetings
- Control over deliberation
- Effective use of the Standing Orders.
- Encourage Members' participation
- Guide the deliberations in terms of focus and relevancy
- Keep a firm hand on the proceedings by managing time and being consistent in applying the legislative rules.
- Drawing upon the talents and expertise of other Members
- Personal persuasions and management skills a critical asset
- Any question arising in a select committee shall be decided by vote and a good Chairperson would be advised to avoid taking a decision on a controversial matter without significant number of Members being present.

### 1.2.3 Attributes of effective Members of a Committee

- Committee Members should be committed and devoted and take their Committee business seriously so as to improve the level and quality of Executive accountability to the public.
- Punctuality – the Committee members must observe punctuality because the secretariat have powers to adjourn the meeting in the event there meeting lacks quorum pursuant Standing Orders 177.



- Avoid technical appearance
- Members of any Committee should respect the office of the Chairperson.
- Members should avoid discussing about the subject of their inquiry in public until their report is laid on the Table of the House so as not to pre-empt the debate.
- Prior to a meeting, it is important that the Committee meets at least thirty (30) to prepare Members and strategize for the meeting.

#### 1.2.4 Role of the Committee Secretariat

- Prepare and circulate Notices of Meetings
- Prepare Programme of Sitzings
- Handle all Committee Correspondence
- Taking of Minutes
- Determine Quorum of Committee meetings
- Procedural Adviser
- Planning and coordination of Committee's programmes and meetings
- Prepare Chairperson's brief
- Committee Documents/Papers– Maintaining and safe record
- Preparation of Draft Report
- Keep track of Committee Budget and Finances and advise the Committee accordingly
- Prepare Committee Work plan and Budget/Finances

## 2.0 Establishment of County Assembly Select Committee

The Committee learnt that the Select Committee on Wards Development Fund is established pursuant to Subsection (5) of Section 35 of the Wards Development Fund Act, 2014 and is mandated, among others, to:-

- Consider and recommend to the County Assembly any matter requiring action by the County Assembly pursuant to the provisions of this Act;
- Oversee the implementation of this Act and in this respect, shall after every two years submit a report to the County Assembly and where necessary propose any amendments to this Act, in particular with respect to the Quantum of funds repayable into the Fund in accordance with section 4 of the Act;
- Oversee the policy framework and legislative matters that may arise in relation to the Fund;
- Continually review the framework set out for the efficient delivery of development programmes financed through the Fund; and

*Report of the Select Committee on Wards Development on the Induction workshop of the Committee held from 2<sup>nd</sup> to 5<sup>th</sup> November, 2017 at Sawela Lodge, Naivasha*

- Consider and report to County Assembly with recommendations, names of persons required to be approved by County Assembly under this Act.

### 3.0 Legal Authority for the Fund

Article 174 of the Constitution provides for the objects for devolutions as among others:-

- To promote democratic and accountable exercise of power
- To give powers to self-governance to the people and enhance participation of people in exercise of powers of the state and in making decisions affecting them
- To recognize the right of communities to manage their own affairs
- To promote social and economic development and provision of proximate ,easily accesible services through Kenya
- To ensure equitable sharing of national and local resources throughout Kenya
- Article 207 (1) and (2) and Article 186
  - Creates the Revenue Fund where all monies to the county are paid to
  - Establishes how monies from the Revenue Fund can be withdrawn or charged.

- The Ward Development Fund is created pursuant to Article 207 2(a)

“Money may be withdrawn from the Revenue Fund of a county government only— as a charge against the Revenue Fund that is provided for by an Act of Parliament or by legislation of the county”

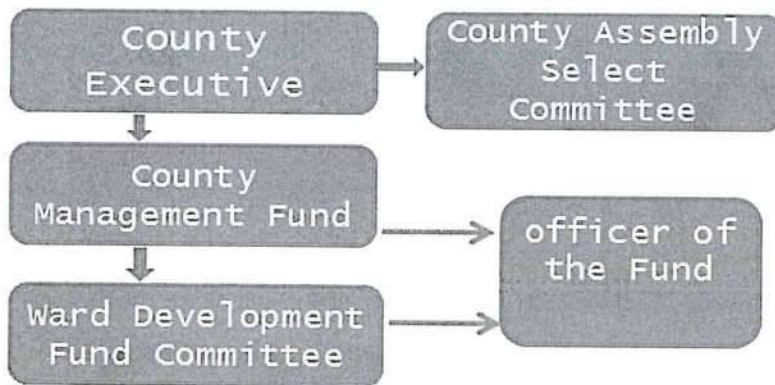
and Section 4 (1) & (2) of the Wards Development Fund Act, 2014 creates the Fund as follows:-

- “An Amount of not less than 5% of all the ordinary revenues of Nairobi City County in every financial year”
- “Any monies accruing to, donated ,lent or received by the fund”
- “Amounts above shall be calculated on the basis of the ordinary revenues collected in the previous financial year as approved by county assembly”

### 4.0 Organizational Structure of the Fund

The Committee members learnt that institutional structure of the Wards Development Fund as illustrated in the diagram below.

## ORGANIZATIONAL STRUCTURE OF THE FUND



The illustration above depicts the functions of each institution in regard to the management and operations and approval of the Fund and further how each institution interrelates with one another. However, the management of the Fund can well be understood in the identification of the responsibilities of both Executive and legislative actors who play various pertinent roles in the management and operations and approval of the Fund.

### 4.1 Executive Actors in the Fund

Executive actors of the Fund are Ward Fund actors in the Executive Arm of the Nairobi County Government. They play a major role of the implementation of the projects. They comprise of:-

- County Executive Committee Member responsible for Finance and Economic Planning County Management Committee (CMC)
- Ward Development Fund Committee (WDFC)
- County Departmental Heads

#### 5.1.1 County Executive Committee Member

This is the County Executive Committee Member responsible for Finance and Economic Planning and is mandated to appoint the Chairperson of the County Wards Development Fund Management Committee from amongst the four persons appointed in accordance with paragraph(d) of subsection (2) of the Nairobi City County Wards Development Fund Act, 2014.

### 5.1.2 County Wards Development Fund Management Committee (CMC)

County Wards Development Fund Management Committee is an institution with a County Executive Function and thus reports to the County Executive who in turn reports to County Assembly on matters touching on Ward Development Fund.

#### Functions of the County Management Committee

- i. To consider project proposals submitted from various Wards in accordance with the Act, approve for funding those project proposals that are consistent with the Act and send funds to the respective Wards Fund Accounts with respect to the approved projects;
- ii. To consider reallocations, resubmissions and request for funds and give approvals in accordance with the Act;
- iii. To ensure timely and efficient disbursement of funds to every Ward;
- iv. To ensure efficient management of the Fund;
- v. To undertake monitoring and evaluation of Ward Fund projects;
- vi. To ensure compilation of proper records, returns and reports from the Wards;
- vii. To receive and discuss annual reports and returns from the Wards;
- viii. Recruit the Chief executive officer and other senior staff of County Management Committee;
- ix. To receive and address complaints and disputes and take appropriate action;
- x. To submit a report to the County Assembly Select Committee on WDF on monthly basis, detailing a summary of project proposals received from the Wards in the preceding month (including their approval status), status of disbursement of funds to Wards, disbursement from County Treasury, and any restrictions imposed on WDFC Account in accordance with the Act;
- xi. To undertake audit of Ward funded projects in the constituencies;
- xii. To issue policy guidelines from time to time to ensure efficient management of the Fund;
- xiii. To receive lists of names of elected Ward Committees for onward transmission to the County Executive for gazettelement;
- xiv. Submission of annual accounts of the Ward and the CMC to the Auditor General; and
- xv. Submission of annual budgets of the CMC to the County Executive for approval.

### 5.1.3 Ward Development Fund Committee

Pursuant to section 32 of the Act there shall be a Ward Development Fund Committee which shall be constituted by the elected member of the Assembly within first thirty days of a new Assembly. The Composition of the Ward Development Fund Committee is Pursuant to the section 33 of the Act.

#### Roles of Ward Development Fund Committee

- i. To prioritize and approve all project proposals from all areas in the Ward and any other projects which the Ward Development Fund Committee consider beneficial to the Ward;
- ii. Consult with the relevant County departments to ensure that the cost estimates for the projects are as realistic as possible;
- iii. Rank project proposals in order of priority provided that ongoing projects shall take precedence;
- iv. Ensure that projects proposed for funding comply with the Act. Monitor the implementation of projects;
- v. Undertake reallocations, resubmissions of projects and requisitions for funds;
- vi. Responsible for preparation of strategic plan for the Wards;
- vii. Ensure preparation of reports and financial statements and submission to the CMC;
- viii. Monitor the implementation of projects;
- ix. Ensure recruitment of competent staff in compliance with the Act;
- x. Responsible for responding to any audit queries;
- xi. Ensure successful closure of all Ward Fund projects; and
- xii. Ensure preparation of work plans and cash flow projections and submitted to the WDFC.

#### 5.1.4. Officer of the Fund(OOTF)

- i. Officer of the Fund is the holder of the Authority to incur Expenditure (AIE)
- ii. As AIE Holder, OOTF will receive WDF money from County on behalf of the WDFCs and must sign a payment voucher or Imprest Warrant first before the County Accountant can process it and issue a cheque;
- iii. Authorises expenditure at the Ward Fund office as the AIE holder;
- iv. Provides technical advice to the WDF Committees on WDF matters;
- v. Maintain files and all minutes of WDFC meetings;
- vi. Prepares monthly returns and submits to the WDFC for discussion before submission to the CMC;

- vii. Oversees Project Management, Monitoring, Evaluation and Reporting at the Ward level on behalf of the WDFCs;
- viii. Maintains books of Accounts and other operational and financial records and ensures their safety;
- ix. Handles correspondence between the CMC Secretariat and the Ward;
- x. Monitors projects implementation and prepares status or progress reports;
- xi. Ensures safe custody of the WDFC assets at the Ward level and coordinates their prudent use as per the WDF Act;
- xii. Maintains records of project proposals, reallocations, resubmissions and requests for funds approved by the WDFC and the CMC;
- xiii. Supervises the WDFC staff, undertakes their appraisals and submits returns to the relevant institutions;
- xiv. Prepares annual work plans and budgets for WDFC and submits the same to the committee for approval; and
- xv. Prepares appropriate financial and projects documents for operational and audit purposes.

#### 5.1.5 Chairperson of the Ward Development Fund Committee

Chairperson of the Ward Development Fund Committee is member of the Ward Development Fund Committee who is nominated by the elected member of the County Assembly pursuant to subsection 1(a) of the section 33 of the Act.

#### Role of the Chairperson of the Ward Development Fund Committee

- i. In consultation with the Member of County Assembly, and ward administrator convenes open public forum meetings in every ward for project identification after every two years;
- ii. Chair WDFC meetings;
- iii. Submitting Ward project proposal to the CMC; and
- iv. In consultation with the secretary convene WDFC meeting.

#### 5.1.6 Role of the Member of the County Assembly

- i. Convene open public forums of registered voters in each elective Sub-ward in the Ward within forty five (45) days of being sworn for purpose of electing members of the WDFC who will then be appointed; and
- v. Convene open forum public meetings at least once every two years in every ward in the Ward to deliberate on development matters in the ward in consultation with the WDFC Chairperson, and the ward administrator for every ward.

### 5.1.7 County Treasury Officer

Payments for programmes funded under WDF are paid through offices of the County Treasury at the County level. The officer responsible for the office at the County is the County Treasury Officer who is tasked with the following duties;-

- i. Mandatory signatory to the WDFC Account;
- ii. Introduces the WDFC signatories to the bank for account opening;
- iii. Introduces the Officer of the Fund to the bank as an agent of the WDFC account; and
- iv. Maintain the original accounting documents for the WDFC.

## 6 Legislative Actors in the Fund

### 6.1 County Assembly Select Committee

The Select Committee on Wards Development Fund is established pursuant to Subsection (5) of Section 35 of the Wards Development Fund Act, 2014 and is mandated, among others, to:-

- a) Consider and recommend to the County Assembly any matter requiring action by the County Assembly pursuant to the provisions of this Act;
- b) Oversee the implementation of this Act and in this respect, shall after every two years submit a report to the County Assembly and where necessary propose any amendments to this Act, in particular with respect to the Quantum of funds repayable into the Fund in accordance with section 4 of the Act;
- c) Oversee the policy framework and legislative matters that may arise in relation to the Fund;
- d) Continually review the framework set out for the efficient delivery of development programmes financed through the Fund;
- e) Consider and report to County Assembly with recommendations, names of persons required to be approved by County Assembly under this Act.

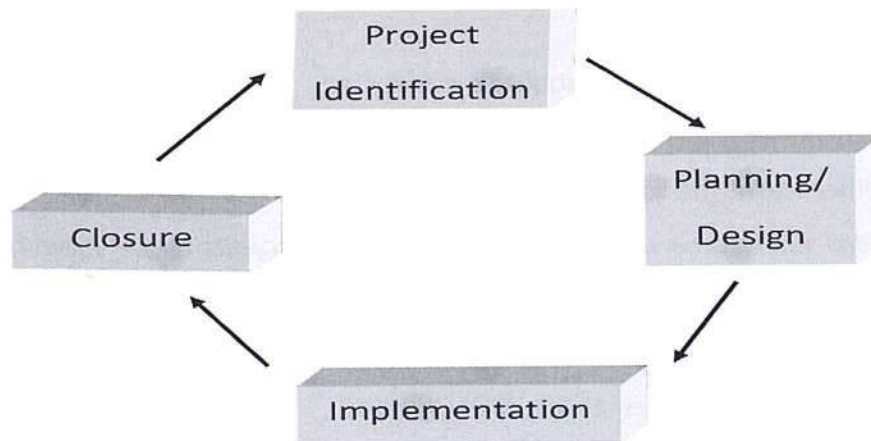
## 7 WARD FUND PROJECT IDENTIFICATION, PLANNING, PROJECT PROPOSAL, APPROVAL AND IMPLEMENTATION

A project? A system of actions or activities with clear start and finish date, initiated and completed through a network of people within the constraints of *time, costs and specifications*.

### Characteristics of a project

- unique set of sequenced events;
- Has a defined scope;
- Has a start and a finish date;
- Limited resources and budget;
- Involves many people across functional areas;
- Limited by Specification, cost and time; and
- Goal oriented

### Phases of the Project Cycle



The Committee learnt that a WDF project goes through four stages namely; project identification, planning and/or design, implementation and finally closing stage.

### Ward Fund Process of Project identification

Every financial year County Management Committee receives a County Allocation Schedule. The schedule indicates the amount of funds each Ward is entitled to in that financial year. The County Management Committee request for an exchequer issue, County Treasury transfers the funds from Treasury Account to CMC account.

## Project Identification Section 33 (6)

The Chairperson of the Ward Development Fund Committee in consultation with the Member of County Assembly for the Ward, the sub-county administrator for the Constituency, and the ward administrator for every ward shall, within the first year of a new County Assembly and at least once every two years thereafter, convene open forum public meetings in every sub-ward in the Ward to deliberate on development matters in the sub-ward and the Ward.

The Sub-ward meetings should be held in consultation with other key grassroots community members (opinion leaders) and technical persons who should be involved in;

- a) setting of the projects objectives;
- b) identifying activities to be carried out;
- c) determining the resources required;
- d) time frames and responsibilities;
- e) expected outputs; and
- f) how monitoring and evaluation should be conducted.

The Committee further learnt the following:-

- o *Each Sub-ward shall come up with a list of priority projects to be submitted to the Ward Development Fund Committee at the WDFC Offices.*
- o Once the priority projects are compiled, the list is then submitted to the Ward Development Fund Committee at the WDFC Offices.
- o The Ward CDFC chair should ensure the list of projects are tabled to the County Projects Committee to avoid duplication especially for projects that lie within the devolved sectors (*pursuant to 4<sup>th</sup> schedule of the Constitution*).
- o Actual cost estimates, designs and work plans should be prepared and submitted to the WDFC.

### Project planning

Project planning is a critical phase in a project cycle. Proper design of projects is a recipe for efficiency for the proper implementation of the Wards Development Fund Projects.

The Committee members learnt the following vital issues in the planning of the Projects that:-

- ⊙ Section 34 (2): WDFC prioritizes the projects and allocates funds to the projects that comply with the provisions of the NCCWDF Act 2014 based on the amount allocated to the Ward;
- ⊙ Consultation should be done with relevant County departments for surveys, Designs and Bills of Quantities where necessary to ensure that allocation to projects are as realistic as possible;
- ⊙ The projects proposals are then approved by the WDFCs through a minuted resolution; and
- ⊙ The Officer of the Fund then prepares the 3<sup>rd</sup> and 4<sup>th</sup> schedule and attaches the Minutes of the WDFC approving the projects for onward submission to the County Management Committee.

### Statutory requirement

The WDFCs must comply with the following statutory allocations;

- Maximum of 3% of the total annual allocation for the Ward may be used for rent, utilities , allowances and staff salaries;
- Sports activities (minus cash awards) up to a maximum of 2% of total annual Ward allocation;
- Capacity Building of various operatives up to a maximum of 2% of total the annual Ward allocation;
- Environmental activities may be allocated a maximum of 2% of the annual Ward allocation; and
- 5% of the fund shall remain unallocated and shall be available for emergencies that may occur within the Ward.

### Project Planning or Formulation

CMC approves the project priorities already approved by the WDFCs and releases funding for implementation.

Section 27 of the WCDF Act stipulates that all projects to be financed by the Ward Development Fund should be community based in order to ensure that the prospective benefits are availed to a widespread cross-section of the inhabitants of a particular area and must take cognizance of rights of Children, PWDs, Youths, Women and Minorities.

## Projects Approval

A list of proposed Ward based projects should be submitted by the Chairman of the Ward Development Fund Committee (WDFC) to the County Management Committee after approval by the WDFC. In the Project Submission Form 3<sup>rd</sup> Schedule, there shall be a minimum of 5 and a maximum of 25 projects in each financial year.

However, projects with similar nature may be combined and considered as one project in the 3<sup>rd</sup> schedule. For every project listed in the form (3<sup>rd</sup> schedule) there shall be attached a Project Description form referred as 4<sup>th</sup> schedule.

The County Wards Development Fund Management Committee (CMC) assigns an officer (s) in the Projects departments to analyze the projects proposals. The report on the projects proposal analysis is then tabled before the Projects Technical Committee (Sub Committee) or County Committee and finally to the County Wards Development Fund Management Committee (CMC) for review and approval.

The CMC considers project proposals submitted from various constituencies in accordance with the Act and approves for funding those projects proposals that are consistent with this Act. Funds of the approved projects are then send to the respective Wards fund account. Where the CMC does not approve a proposal submitted, it refers the matter to the WDFC giving reasons as to why it has declined the proposal.

Among the items for the County Wards Development Fund Management Committee (CMC) to look at while approving projects includes;

- ⊙ Does the project allocation meet the statutory requirements?
- ⊙ Are the proposed projects community based?
- ⊙ *Does projects take cognizance of rights of Children, PWDs, Youths ,Women and Minorities.*
- ⊙ Have the proposals been signed by WDFC officials as necessary (Chair)?
- ⊙ Is the total amount of proposed projects equivalent to the annual allocation?
- ⊙ Where a Ward exceeds its annual ceilings, the CMC shall consider the order in which they are listed as the order of priority for purposes of allocation of funds, provided that on-going projects shall take precedence over all other projects.
- ⊙ Is the expected output measurable? i.e. activities to be implemented to be clear
- ⊙ Are the WDFC minutes of the meeting proposing the projects attached?

- ⦿ Are the 3<sup>rd</sup> and the 4<sup>th</sup> Schedules duly signed?
- ⦿ Are the projects given in the 4<sup>th</sup> schedule matching with the soft copy of the code list send by Officer of the Funds?.

### Disclosure of approved projects

CMC communicates the approved projects by;

- ⦿ An AIE to the Officer of the Fund;
- ⦿ A coded listing of the approved projects to the Officer of the Fund; and
- ⦿ A cheque is also written to the WDFC account at the same time.

### Projects Implementation

It is worth noting that Project Management Committee is no longer functional. The County Wards Development Fund Management Committee (CMC) is responsible for implementation of all projects.

### Monitoring and Evaluation

Monitoring and Evaluation involve the collection and analysis of data on the project. Monitoring is more concerned with on-going projects and their adherence to plans. Evaluation is more concerned with the achievement of goals and other changes brought about by the project.

Therefore it is worth noting that Monitoring and Evaluation is a continuous process from inception to a closure of project.

The Committee further observed that Monitoring and Evaluation is an important process in all stages of project cycle for the following reasons:-

- i. The Fund is managed by the County Management Committee which is charged with a responsibility of effective and efficient administration of the Fund; and
- ii. WDF Act, 2014, provides that the WDFCs and the CMC shall be responsible for monitoring the implementation of WDF projects and may designate a sub-committee to undertake the monitoring and evaluation role.

## Challenges experienced

The resource person shared with the Committee some of the challenges encountered in the course of Ward Fund project identification, planning, project proposal, approval and implementation. Some of the challenges could include:-

- ✚ Some WDFC submit Ward Projects Submission Forms (3<sup>rd</sup> schedule) and Project Description Form (4<sup>th</sup> schedule) without considering the allocation to the Ward.
- ✚ Some Wards do not include 3<sup>rd</sup> Schedules for statutory allocations.
- ✚ The minutes do not capture deliberations of the submitted projects.
- ✚ Ambiguous project activity description.
- ✚ Summation of figures in the 3<sup>rd</sup> schedule does not tally with the 4<sup>th</sup> schedule.
- ✚ 4<sup>th</sup> schedule form does not provide for activity to be done and project status information.
- ✚ Some Officers of the Fund are not aware about the proposal submitted to the CMC office as it is done without their knowledge. This takes time for the proposal to be corrected since they have to liaise with those who brought the proposals to advise them on the Secretariats' comments.
- ✚ WDFCs find it a challenge to indicate activities to be done especially on environmental and sports projects – being statutory allocation they just allocate funds without clear motive of what is to be undertaken, a clear indication that the project to be undertaken under this votes may not have originated from the community as required by the WDF Act.
- ✚ Wrong statutory calculations.
- ✚ Thinly spreading of funds.
- ✚ Allocation of funds to projects without giving priority to the ongoing projects as required by the WDF Act, 2014

## 8 BACKGROUND CHALLENGES THAT FACED THE LEGAL FRAMEWORK OF THE NAIROBI CITY COUNTY WARD DEVELOPMENT FUND

A number of challenges were encountered over the years particularly within the legal framework of the Act. There were a number of concerns and attempts to give reasons to amend the Act notably from the Controller of Budget and some other interest groups. These historical challenges facing the legal framework of the Nairobi City County Ward Development Fund Act, 2014 touched on the following matters:-

*Report of the Select Committee on Wards Development on the Induction workshop of the Committee held from 2<sup>nd</sup> to 5<sup>th</sup> November, 2017 at Sawela Lodge, Naivasha*

- ✚ The Role of the County Assembly in the Fund
- ✚ Election and Constitution of WDF Committees
- ✚ Composition of County Management Committee –Clerk of County Assembly
- ✚ Separation of Powers

### The Role of the County Assembly in the Fund

The COB shared its sentiments by categorically invoking the role of County Assembly in the Fund as enshrined in Article 1 of Constitution- *All sovereign power belongs to the people of Kenya and shall be exercised directly and indirectly through their democratically elected representatives (MPs, Senators and MCAs)*

Further Article 185 of Constitution-*Gives the MCA the powers to oversight the government Expenditures* and Article 224 of Constitution- *Gives the County Assemblies power of the “purse” –Appropriation Bill* that is a County Assembly has power to consider, allocate and approve funds for the County Expenditure.

### Election and Constitution of WDF Committees

*Section 33 as amended Provides for the Constitution of the WDF Committee*

- i. Role of the Member is convening the public as a leader of the Ward; and
- ii. The County Assembly can still exercise its role in the nomination of WDF Committees by approval of the names in the Assembly before gazettelement as per Section 35 5(e).

### Composition of the County Management Committee

*Section 5 Provides for the Constitution of the County Management Committee*

Another concern was the role of the Clerk of the County Assembly. The role of the Clerk in the Committee was to hold brief for the County Assembly members in the Committee affairs. However the place of Clerk of the County Assembly was critiqued by the Controller of Budget. For instance COB argues that separation of powers doctrine is breached by Clerk sitting in the Committee.

However the arguments by COB was met with concerns from the Select Committee on Wards Development Fund who sought to know the answers to the following question;-

- how can the County Assembly remove the Clerk from the Committee when still his office remain central in the Fund?

Select Committee on Wards Development Fund further observed that the Clerk of the County Assembly perform other important functions for instance;-

- i. Select Committee on Wards Development Fund Vet the CEO of the Fund through the office of the Clerk; and
- ii. The Committee further observed that the office of the Clerk Provides strict reporting mechanism by Committee to the County Assembly Committee.

### Separation of Powers

The COB and Courts have pointed out that the such legislative Fund breaches the doctrine of separation of Powers.

Select Committee on Wards Development Fund however inquired- *The Parliament and County Assembly hold the power of the Purse as enshrined in Article 224 of the Constitution, does that mean they have no right to implement projects?*

The Committee further inquired to know why do Judiciary through the JSC and Registrar of Courts implements many projects and yet this is not seen as breach of the separation of powers?

However it is worth noting that the First Assembly had addressed the Concerns from COB and Courts and had subsequently making some amendments in 2014 in regard to composition of WDF Committees.

## 9 CONCLUSION AND WAY FORWARD

After a successful vigorous induction of Members of the Select Committee on Wards Development Fund, the Committee made a number of deliberations and therefore made the following resolutions;

- i. The Committee resolved to keep track of all projects of the previous financial year.
- ii. The Committee further resolved all initiated WDF Projects be completed before approvals of new projects are done.
- iii. The Committee deliberated must have a monthly meeting with County Management Committee and the CEC responsible for Finance and Economic Planning as enshrined in the Act.
- iv. The Committee resolved to have a discussion with the County Management Committee in an effort to allocate funds for the Wards Development Management Committee. Since no fund was set aside for the operational expenses for the Wards

*Report of the Select Committee on Wards Development on the Induction workshop of the Committee held from 2<sup>nd</sup> to 5<sup>th</sup> November, 2017 at Sawela Lodge, Naivasha*

Development Management Committee, the Select Committee on WDF resolved to have discussion so that 3% of the available 97% of the total Fund is allotted for the operational expenses for the Wards Development Committee.

- v. The Committee further resolved that the Assembly facilitate a joint induction Workshop for all the elected members and the members of the Select Workshop for the purpose of equipping the members on the knowledge on WDF projects and procedures, the overview and importance of the Fund before the end of November, 2017.
- vi. The Committee further resolved that a bench marking visit be made to Countries such as Philippines, Canada, Cuba and Venezuela which have best practices on Wards Development Fund or its equivalents.
- vii. The Committee further resolved that a request be made to the Governor to facilitate a Joint Workshop with County Management Committee
- viii. The Committee further resolved that the amendment of subsection 3(a) of the section 8 of the 2014 be deleted and replaced by the Original subsection of the principal act which is as expressed in subsection 3(a) of the section 8 of the 2014;-

'The Officer Administering the Fund Shall---

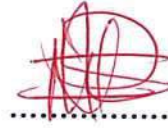
*(a) Be appointed by the Member of the County Executive Committee after approval by the County Assembly.*



## Annex 1:

The following are Committee members who appended their signatures in support of the report

1. Hon. Patricia Mutheu, MCA
2. Hon. Mwaura Samora, MCA
3. Hon. Chege Mwaura, MCA
4. Hon. Peter Warutere, MCA
5. Hon. Millicent Mugadi, MCA
6. Hon. Fredrick Njogu, MCA
7. Hon. Nicholas Okumu, MCA
8. Hon. Jared Okode, MCA
9. Hon. Emily Waithaka, MCA
10. Hon. Naftali Ogola, MCA
11. Hon. Fuad Hussein Mohammed, MCA



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MINUTES OF THE 5<sup>TH</sup> SITTING OF NAIROBI CITY COUNTY ASSEMBLY THE SELECT COMMITTEE ON WARD DEVELOPMENT HELD ON TUESDAY, 5<sup>TH</sup> DECEMBER, 2017 AT 11:30 A.M. CHARTER HALL.

PRESENT:

- |                                      |             |
|--------------------------------------|-------------|
| 1. Hon. Patricia Mutheu Musyimi, MCA | Chairperson |
| 2. Hon. Fredrick Njogu, MCA          |             |
| 3. Hon. Fuad Hussein Mohamed, MCA    |             |
| 4. Hon. Nicholas Okumu, MCA          |             |
| 5. Hon. Naftali Ogola, MCA           |             |
| 6. Hon. Emily Waithaka, MCA          |             |

ABSENT:

- |                              |                  |
|------------------------------|------------------|
| 1. Hon. Mwaura Samora, MCA   | Vice-Chairperson |
| 2. Hon. Chege Mwaura, MCA    |                  |
| 3. Hon. Peter Warutere, MCA  |                  |
| 4. Hon. Milicent Mugadi, MCA |                  |
| 5. Hon. Jared Okode, MCA     |                  |

SECRETARIAT – COUNTY ASSEMBLY

1. Mr. Guyo Sankala Sama– Clerk assistant
2. Ms. Rose Edna Kanana– Clerk assistant

AGENDA

1. Preliminaries (prayers & adoption of the Agenda)
2. Confirmation of minutes
  - 2<sup>nd</sup> to 4<sup>th</sup> sittings
3. Matters arising
4. Consideration and adoption of the Report of the induction workshop
5. Deliberation on requests by The Institute for Social Accountability (TISA)
  - Request for information on WDF Projects by Ms. Wanjiru Gikonyo
6. Any Other Business
7. Adjournment.

MIN 020/WDF/DEC/2017 - PRELIMINARIES

The meeting was called to order at 11:49am by Committee Chairperson who also led in a word of prayer. Agenda were read and adopted after being proposed by Hon. Nicholas Okumu and seconded by Hon. Fredrick Njogu.

MIN. 021/WDF/DEC/2017- CONFIRMATION OF MINUTES

The Committee resolved that minutes of the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> sittings be confirmed in the next meeting.

MIN. 022/WDF/DEC/2017- CONSIDERATION AND ADOPTION OF THE REPORT OF THE WORKSHOP

The report of the Committee of the induction workshop held from 2<sup>nd</sup> to 5<sup>th</sup> November, 2017 was considered and adopted by the majority of the membership of the Committee.

MIN. 023/WDF/DEC /2017- DELIBERATION ON REQUESTS BY THE INSTITUTE FOR SOCIAL ACCOUNTABILITY (TISA)

- Request for information on WDF Projects by Ms. Wanjiru Gikonyo

The Committee resolved that a letter be written to the County Wards Development Fund Management Committee (CMC) requesting to be furnished for the information inquired by Ms. Wanjiru Gikonyo.



MIN. 024/WDF/DEC /2017-ANY OTHER BUSINESS

There was no any other business considered by the Committee.

MIN. 025/WDF/OCT /2017-ADJOURNMENT

There being no other business to consider the Chairperson elect adjourned the Meeting at 12:15pm.

CONFIRMED AS TRUE RECORDS OF PROCEEDINGS

CHAIRPERSON.....  
COMMITTEE CLERK.....

DATE.....5/Dec/2017  
DATE.....25/12/2017