

GOVERNMENT OF NAIROBI CITY COUNTY



Paper Laid by Hon. Ham  
Malwa  
Adenoo  
on Tuesday 29/10/24  
PLA  
29/10/2024

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(THIRD SESSION)

NCCA/TJ/PL/2024(58)

29<sup>TH</sup> OCTOBER 2024

PAPER LAID

SUBJECT: REPORT OF A COMMITTEE

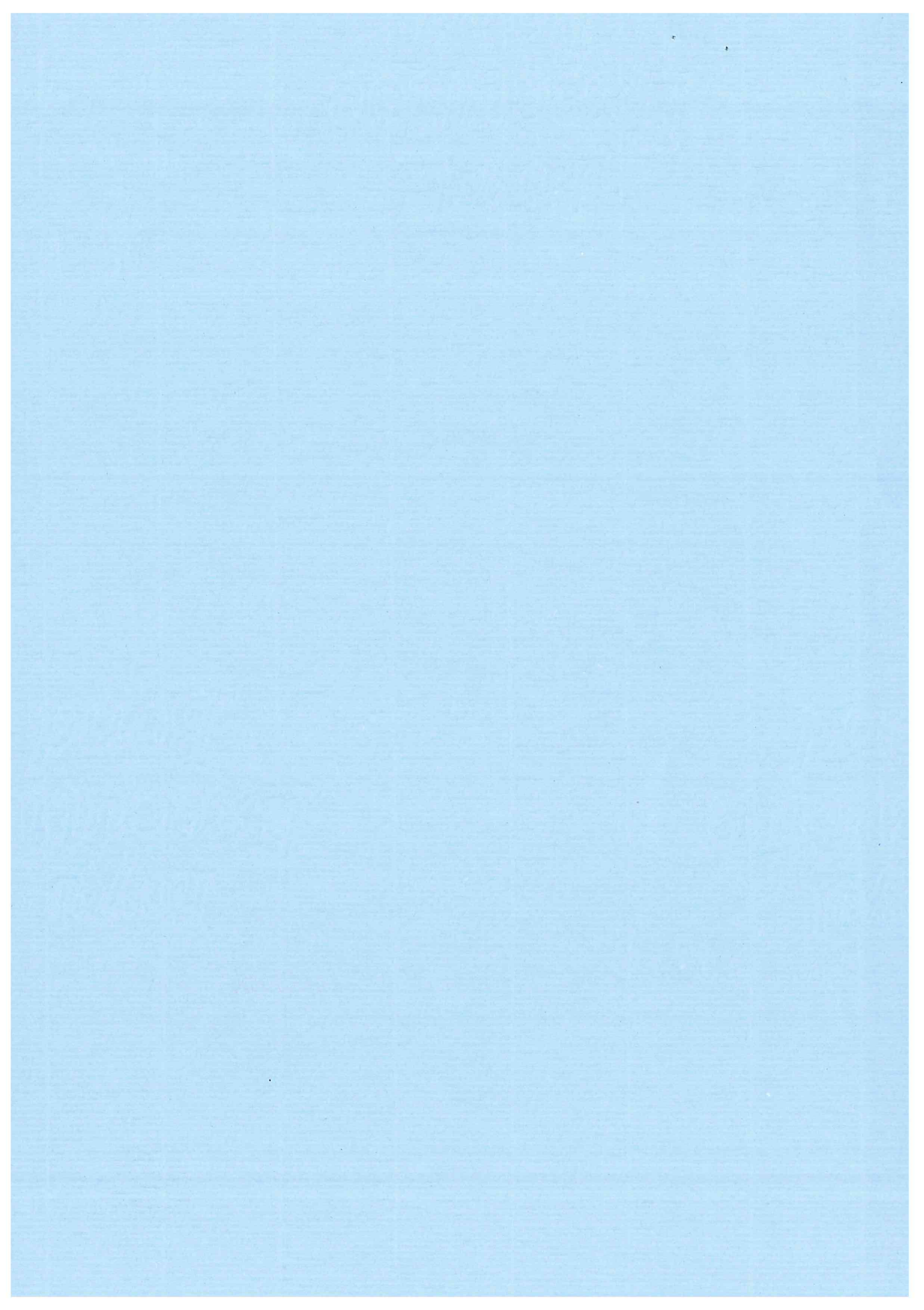
Pursuant to Standing Orders 196, I beg to lay the following Paper on the Table of this Assembly, today Tuesday 29<sup>th</sup> October 2024:

- i) **THE REPORT OF THE SELECT COMMITTEE ON WARD DEVELOPMENT FUND ON WORKSHOP HELD FROM 1<sup>ST</sup> TO 4<sup>TH</sup> DECEMBER 2022 AT COMTINENTAL HOTEL, MOMBASA COUNTY.**

*(Chairperson of the Select Committee on Ward Development Fund)*

Copies to:  
The Speaker  
The Clerk  
Hansard Editor  
Hansard Reporters  
The Press

NCCA  
APPROVED  
★ 29 OCT 2024 ★  
Sign:.....  
HON. SPEAKER



# NAIROBI CITY COUNTY ASSEMBLY



THIRD ASSEMBLY – FIRST SESSION

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

ON

WORKSHOP HELD FROM 1<sup>ST</sup> TO 4<sup>TH</sup> DECEMBER, 2022 AT  
MOMBASA CONTINENTAL, MOMBASA

Clerk's Chambers,  
CITY HALL,  
NAIROBI.



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ABBREVIATIONS

- OOTF - Officer of the Fund
- AIE - Authority to Incur Expenditure
- WDFC - Wards Development Fund Committee
- CWDFMC/CMC - County Wards Development Fund Management Management Committee
- 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) The Hon. Dabar Ahmendqadar, MCA – Chairperson
- 2) The Hon. Mwaura Samora, MCA – Vice Chairperson
- 3) The Hon. Abel Osumba Atito, MCA
- 4) The Hon. Silas Matara, MCA
- 5) The Hon. Scolastica Muthoni, MCA
- 6) The Hon. James Koria, MCA
- 7) The Hon. Gerald Irungu, MCA
- 8) The Hon. Joseph Ndungu Karanja , MCA
- 9) The Hon. Sospeter Mumbi, MCA
- 10) The Hon. John Musila, MCA
- 11) The Hon. Hamisi Maleya, 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 quarterly workshop from 1<sup>st</sup> to 4<sup>th</sup> December, 2022. The objectives of the Workshop were to enable the Committee members to:-

- i. Understand the importance and objectives of the Nairobi City County Wards Development Fund Act, 2014;
- ii. Understand and internalize the vital concepts and dynamics as contained in the Nairobi City County Wards Development Fund Act, 2014 and the subsequent amendments of 2014, 2015 and 2016;
- iii. Understand
  - the powers and mandates of the Select Committee on Wards Development Fund and its Legal underpinnings,
  - The roles of the County Management Committee and Wards Management Committee as enshrined in the Act;
- iv. Deliberations on the lessons learnt and way forward
  - Devise ways to achieving effective implementation of the Act.




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** .....  
12<sup>th</sup> June 2024

Hon. Ahmed Dabar, 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 Quarterly workshop from 1<sup>st</sup> – 4<sup>th</sup> December, 2022. The workshop entailed the overview of the Principal Act, importance and objectives of the Nairobi City County Wards Development Fund Act, 2014, the vital concepts and dynamics as contained in the said Act and the subsequent amendments of 2014, 2015 and 2016, the roles of the County Management Committee and Wards Management Committee as enshrined in the Act, opportunities and challenges in implementation of the Fund, Committee's resolutions in achieving effective implementation of the Fund.

### Chairperson's 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 began by informing the members that the Nairobi City County Assembly Wards Development Fund was enacted into law in the year 2014. He presented that the Act contains eight(8) parts, forty eighty(48) sections, four (4) schedules and have three subsequent amendments of 2014, 2015 and 2016.

### KEY AREAS IN THE PRESENTATIONS

During the two(2) day workshop the facilitator took the members through the Act section by section and its subsequent amendments. The members reacted to most of the sections.

#### - Objects and purposes of Act

Pursuant to Section 3, the Committee learnt that the object and purpose of this Act is to further objectives of the provisions of Article 186 and 207 (2)(a) of the Constitution and ensure that a specific portion of the County annual budget is devoted to the Wards for purposes of development and in particular the fight against poverty at the Ward level.

#### - Establishment, Administration and Legal Authority of the Fund as contained in the Constitution of Kenya and the Act

In regard to Establishment and Administration of the Fund, the facilitator taught the members on the legal authority of the Fund:-

Article 207 (1) and (2) and Article 186 of the Constitution;

- 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 Committee learnt that the Ward Development Fund is created pursuant to Article 207 2(a) of the Constitution which provides that;

*“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 further pursuant to 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 from any other lawful source”
- “Amounts above shall be calculated on the basis of the ordinary revenues collected in the previous financial year as approved by county assembly”

The Committee further learnt that **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 accessible services through Kenya; and
- ✚ To ensure equitable sharing of national and local resources throughout Kenya.

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



## EXECUTIVE ACTORS

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

### County Executive Committee Member

This is the County Executive Committee Member responsible for Finance and Economic Affairs 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 section 5 subsection (2) of the Nairobi City County Wards Development Fund Act, 2014.

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

This is a committee at the county Level and is an institution with a County Executive Function and thus reports to the County Executive who in turn reports to County Assembly on matters relating to the Fund.

### Functions of the CMC

- 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.

#### Ward Development Fund Committee

Members learnt that this is a committee at the ward level 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(30) of a new Assembly. The Composition of the Ward Development Fund Committee is Pursuant to the section 33 of the Act. The facilitator brice sitting allowance for the 85 committees at ward level elicit huge wage bill the COB advice deletion of previsions relating to section 32.

#### 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.

### Officer of the Fund(OOTF)

This is the chief executive officer who is the head of the secrariat. Officer of the Fund is the holder of the Authority to incur Expenditure (AIE)

- i. 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;
- ii. Authorises expenditure at the Ward Fund office as the AIE holder;
- iii. Provides technical advice to the WDF Committees on WDF matters;
- iv. Maintain files and all minutes of WDFC meetings;
- v. Prepares monthly returns and submits to the WDFC for discussion before submission to the CMC;
- vi. Oversees Project Management, Monitoring, Evaluation and Reporting at the Ward level on behalf of the WDFCs;
- vii. Maintains books of Accounts and other operational and financial records and ensures their safety;
- viii. Handles correspondence between the CMC Secretariat and the Ward;
- ix. Monitors projects implementation and prepares status or progress reports;
- x. Ensures safe custody of the WDFC assets at the Ward level and coordinates their prudent use as per the WDF Act;
- xi. Maintains records of project proposals, reallocations, resubmissions and requests for funds approved by the WDFC and the CMC;
- xii. Supervises the WDFC staff, undertakes their appraisals and submits returns to the relevant institutions;
- xiii. Prepares annual work plans and budgets for WDFC and submits the same to the committee for approval; and



xiv. Prepares appropriate financial and projects documents for operational and audit purposes.

**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.

However the members were further informend that due concerns raised by the controller of budget in the spirit of separation of powers this section was later ammemnded.

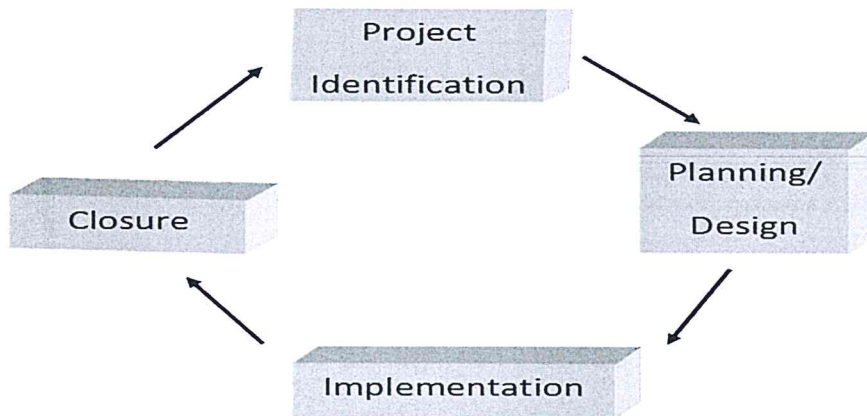
**WARD FUND PROJECT IDENTIFICATION, PLANNING, PROJECT PROPOSAL, APPROVAL AND IMPLEMENTATION**

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 as shown in the illustration above.

### 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.





- 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*).
- 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.

## 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:-

- ⚡ 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 Controller of Budget(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 Controller of Budget(COB) argues that separation of powers doctrine is breached by Clerk sitting in the Committee.

However the arguments by Controller of Budget(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/her 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:-

- Select Committee on Wards Development Fund Vet the CEO of the Fund through the office of the Clerk; and
- 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 Controller of Budget(COB) 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 Judicial Service Commission 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.



## COMMITTEE DELIBERATIONS ARISING FROM THE PRESENTATIONS

### a. On concerns raised in the Circular by the Controller of Budget(COB)

The Committee has further reported that recently Controller of Budget(COB) has made a Circular to all those Counties that have Wards Development Fund questioning the legitimacy of the Establishment of the Fund.

The Committee had therefore deliberated to challenge through both legal and political ways to counter the issues as addressed in the recent circular by Controller of Budget(COB). By political ways, the Committee meant that the Counties which have Wards Development Fund to join in arms, form a strong lobby association in advocating for this Fund either through Media or any other channel.

On the other hand the Committee further deliberated that Assembly through the Office of the Clerk should hire a Legal personnel to take up the matter(Concerns by Controller of Budget(COB) before the Court of Law for Constitutional interpretation of the Nairobi City County Assembly Wards Development Fund Act, 2014. The Committee opines that by seeking the Constitutional interpretation, there would be no back and forth on this issue with Controller of Budget(COB) hence County would go ahead in implementing the Fund with much ease.

### b. Section 35(5):

- Following the deliberations on the functions of the Select Committee pursuant to Section 35(5) the Committee deliberated that the County Management Committee must devise a regulation that would enhance the smooth implementation of the Fund.

### c. Section 38(1 and 2):

- 38(1) provides that 'All works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposal Act 2005'. The Committee suggested that the this section be amended to allow generality, flexibility and serve future adjustment. The section 38(1) is very specific and forgetting the need to abide to the laws in force.



- Further on procurement of social services and works, the Committee deliberated that the section 38(2) be deleted because its ambiguous.

d. Section 8(3a):

In discussion relating to Section 8(3a), the Committee learnt that an amendment was done to delete the Section which states that the 'The Officer Administering the Fund Shall---

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

- The Committee deliberated that the original section was quite in order given the County Assembly has powers to vet and approve the Officer Administering the Fund similarly to any other Public appointment position.

#### CONCLUSION AND WAY FORWARD.

The chair thanked everyone for attending the workshop and the workshop was concluded with the following resolutions;

The chairperson thanked Mr. Benjerman Magut for having taken the members through an insightful presentation following regorous deliberations on the implementation of the fund, the committee agreed on the underlisted.

1. Monthely meeting with CMC ( County Management Meeting) as regular follow up on the implementation of projects financed by Ward Deveopment Programme
2. Review of the Ward Development Fund Act, 2014.



