

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

THIRD ASSEMBLY – SECOND SESSION

Wednesday 24th May, 2023

House met in the Main Chamber at 2:30 p.m.

(The Deputy Speaker (Hon. Nereah Okombo) in the Chair)

PRAYER

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, the House is not fully constituted. We are lacking quorum. Therefore, in line with the provisions of the Kisumu County Assembly Standing Order No. 32 (2), I want to request the Serjeant -at-Arms to ring the quorum bell for the first five minutes.

(Quorum bell rung for five minutes)

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B” Ward): Honourable Members, may I request the Deputy Whip to confirm if we have quorum.

The Deputy Whip (Hon. Obonyo. MCA, South West Kisumu Ward): Madam Speaker, there is quorum.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B” Ward): Madam Clerk, please take us through the Order Paper of today.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B” Ward): Next order!!

MOTION

STATUS OF OPERATIONALIZATION OF THE KISUMU COUNTY WARD
DEVELOPMENT FUND (AMENDMENT) ACT, 2016

BY

HON. VITALIS K'OMUDHO, MCA, CHEMELIL/TAMU WARD

(CHAIRPERSON, WARD DEVELOPMENT COMMITTEE)

The Deputy Speaker (Hon. Okombo, MCA, Manyatta B Ward): Hon. Vitalis K'Omudho.

Hon. K'Omudho (MCA, Muhoroni Koru Ward): Thank you Madam Speaker. I seek your indulgence to move the report by the Committee of Ward Development on the Status of the Kisumu County Ward Development Fund (Amendment) Act of 2016.

Hon. Speaker, the provisions of Article 176 (2) of the Constitution of Kenya 2010 bestows upon the County Governments, the authority to decentralize its functions and the provision of its services to the extent that is efficient and practicable to do so. Article 174 (h) also seeks, an objective of devolution, to further decentralize state organs, their functions and services. Moreover, Section 48 of the County Governments Act 2012 also provides for further decentralization of functions and services by County Governments.

Hon. Speaker, the provisions of Article 228 of the Constitution of Kenya 2010, established the Office of the Controller of Budget with the mandate to oversee the implementation of the budgets of the National and County Governments by authorizing withdrawals from public funds under Articles 204, 206 and 207 of the Constitution of Kenya 2010. Further, not to approve any withdrawal from a public fund unless satisfied that the withdrawal is authorized by law.

Based on the above provisions of the laws of Kenya which cannot be applied in isolation, the Kisumu County Assembly enacted the Kisumu County Ward Development Fund Act, 2014. This was the first enabling legislation enacted in 2015 to operationalize the ward fund at the ward and village levels.

However; its provisions offended the national legislation in the following ways:

1. There were unclear separation of powers between implementation and oversight.
2. The appointment of administrator of the fund by the County Public Service Board was not in line with what is stipulated in section 116(2) of the Public Finance Management Act, (2012), that states ‘for every county public fund established, the County Executive Committee Member for Finance shall designate a person responsible for administering the established fund.

Hon. House, the Kisumu County Ward Development Fund Act, 2015 was consequently amended in 2016 (Annex i) to correct the defects of the earlier law and align it to the existing laws. This Act however, is not operational.

Establishment and Mandate of the Committee

Hon. Speaker, the Committee on Ward Development Fund is established pursuant to the provisions of Section 14 (1) (b) of the County Governments Act which provides for establishment of Committees by County Assemblies read together with the Kisumu County Assembly Standing Orders No. 193 and the 2nd Schedule of the Standing Orders which mandates the Committee to investigate all matters relating to the allocation and payments of funds, ensure prudent management of funds, receive and discuss the annual reports and returns from the Wards, ensure timely submissions to the County Assembly of various returns, reports and information as required under the Act; consider project proposals submitted to various wards in accordance with the Act and make appropriate recommendations to the County Assembly, continually review, oversee the implementation, policy framework and legislative matters that may arise in relation to the Fund, and perform such other functions as may be provided for in this Act.

Committee Membership

The Committee comprises of the following Members:

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|--------------------------|------------------|
| 1. Hon. Vitalis K'omudho | Chairperson |
| 2. Hon. Samuel Onyango | Vice Chairperson |
| 3. Hon. James Omollo | Member |
| 4. Hon. Henrietta Bodo | Member |
| 5. Hon. Joachim Oketch | Member |
| 6. Hon. Alice Wajewa | Member |
| 7. Hon. Millicent Omuya | Member |
| 8. Hon. Fredrick Odari | Member |
| 9. Hon. Tom Nyaoke | Member |
| 10. Hon. Vincent Obuya | Member |
| 11. Hon. Kennedy Ooko | Member |
| 12. Hon. Mickey Ochieng' | Member |
| 13. Hon. George Abaja | Member |
| 14. Hon. Gard Olima | Member |
| 15. Hon. Kelvin Oraro | Member |

Acknowledgement and Tabling

Hon. Speaker, the Committee wishes to extend its gratitude to the offices of the Speaker and Clerk of the Kisumu County Assembly for the technical and facilitative support accorded to in the entire time of the making of this report.

The Committee also appreciates the Members and secretariat who played an invaluable role in the preparation and production of this report. It is therefore my pleasure to present to this House the final report on the Status of Operationalization of the Kisumu County Ward Development Fund (Amendment) Act 2016.

LEGAL FRAMEWORK

Hon. Speaker, the concept of the establishment and administration of public fund accounts at the County Government level can be guided by the following legislative frameworks and policy provisions:

1. The Constitution of Kenya 2010.
 - a) Article 176 (2) which provides that every county government shall decentralize its functions and the provision of its services to the extent that is efficient and practicable to do so.
 - b) Article 174 provides for the objects of devolution of government.
 - c) Articles 204, 206 and 207 highlights the establishment of equalization fund, consolidated fund and other public funds and revenue fund for county governments respectively.
 - d) Article 228 highlights the establishment of the Office of the Controller of budget and his responsibility in overseeing implementation of the budgets of the national and county governments by authorizing withdrawals from public funds under Articles 204, 206 and 207 as stated in (c) above.

2. The Public Finance Management Act, 2012.

Section 116 of the Act provides that for the power to establish other county public funds.

It stipulates that:

1. A County Executive Committee Member for Finance may establish other public funds with the approval of the County Executive Committee and the County Assembly.
2. For every county public fund established, the County Executive Committee Member for Finance shall designate a person responsible for administering that fund.
3. The administrator of a county public fund shall ensure that the earnings of, or accruals to a county public fund are retained in the fund, unless the County Executive Committee Member for Finance directs otherwise.
4. The administrator of a county public fund shall ensure that money held in the fund, including any earnings or accruals referred to in subsection (3) is spent only for the purposes for which the fund is established.

3. The Public Finance Management (County Government) Regulations of 2015.

Regulation 197 of the Public Finance Management (County Government) Regulations, 2015, provides for the county public fund establishment and criteria for the establishment of such a fund. It specifically states that ‘the establishment of a county public Fund shall at the minimum meet the following requirements:

- a) Be initiated through a proposal by the County Executive Committee Member responsible for the county government entity under which the functions of the Fund fall, clearly setting out the justifications and submit it to the County Executive Committee Member.
- b) The County Executive Committee Member responsible for the county government entity shall certify in writing that the functions and the public services to be delivered through the Fund cannot be delivered through the structure of budget appropriations.
- c) Provide a clear justification as to why a Fund structure is deemed appropriate for improved service delivery in light of the legislative and policy mandate of the county government entity.
- d) The administration costs of the Fund shall be a maximum of three (3%) percent of the approved budgets of the Fund.
- e) The County Executive Committee Member responsible for the county government entity functions shall confirm in writing that the establishment of the Fund and its continued existence will not depend on annual financing from the county exchequer.
- f) A Fund that has a lifespan of less than two years shall not be approved unless it is for unforeseen and urgent need.
- g) The County Executive Committee Member shall grant approval in writing before establishment of the Fund.
- h) The County Executive Committee Member responsible for the entity shall demonstrate how the activities of the proposed County Public Fund will fit in the overall Medium Term Plan and County Fiscal Strategy Paper, and
- i) The initial approval for establishment of a county public Fund shall be for a maximum period of ten (10) years, beyond which the County Executive Committee and County Assembly approvals shall be sought.’

4. Guidelines released by the Office of the Controller of Budget.

The Office of the Controller of Budget released the Ward Development Fund guidelines through circular number 26 of 2014 (Annex ii) to aid Counties in establishing the fund, improve on reporting and accountability of public funds, and adhere to established laws such as the Public Finance Management Act, 2012 and the Constitution of Kenya, 2010.

5. The Kisumu County Ward Development (Amendment) Act, 2016.

An Act of Kisumu County to make provisions for establishment of the Ward Development Fund into which an amount equivalent to 10% of the County Government revenue shall be paid into so as to facilitate development at the ward level and enable the County to finance projects at the ward level.

6. The Kisumu County Standing Orders.

Standing Order No. 193 read together with its Second Schedule on sectoral committees provides for the establishment, mandate and functions of the Ward Development Committee.

7. And any National Policy or County Legislation. All legislative proposals must be consistent with existing laws of Kenya.

COMMITTEE ANALYSIS OF THE AMENDED ACT

Hon. Speaker, in a bid to make a comprehensive consideration of the matter at hand, the Committee conducted legislative processing of the matter using various methodologies. The Committee undertook a retreat exercise with the following objectives:

- i. Scrutiny of the Kisumu County Ward Development Fund (Amendment) Act, 2016.
- ii. Make necessary amendments that hinder the Act's operation.
- iii. Find different solutions to achieve the Committee's mission of re-operationalizing the Fund.

The Committee also identified various stakeholders whose input, advice and co-operations would be very crucial in conclusive consideration of this matter. The stakeholders engaged included: the County Executive Committee Member for Finance and Economic Planning, the Chief Finance Officer and their technical teams.

The Committee also acquired through review of documentations on the same matter by other County Assemblies such as the County Assembly of Elgeyo Marakwet and the County Assembly of Nakuru.

Overview of the Kisumu County Ward Development Fund (Amendment) Act, 2016

Hon. Speaker, the short title of the Act is 'The Kisumu County Ward Development Fund (Amendment) Act 2016'.

The long title of the Act provides that, it is an Act of the Kisumu County Assembly to amend the Kisumu County Ward Development Act, 2014, to provide for establishment, administration and use of the Ward Development Fund and for connected purposes.

The Act is aimed at fulfilling one single objective: to ensure a specific portion of the annual county budget is devoted to the Wards for purposes of development at the Ward level.

The Act is divided into several parts with various provisions as summarized below:

1. Part I sets out the preliminary matters including the title, definition of various terms used in the Act and the purpose of the Act.
2. Part II highlights the establishment and administration of the Fund. This part also establishes the following:
 - a. Establishment of the fund
 - b. Establishment, business affairs and functions of the County Ward Development Management Committee,
 - c. Administrator of the fund,
 - d. Secondment of staff
 - e. Delegation by the County Ward Development Management Committee.
3. Part III outlines the financial procedures with respect to the administration of the Fund. It highlights the following:
 - a. Disbursement from and allocation of funds
 - b. Funds to be retained in the fund
 - c. Bank account of the fund
 - d. Initial ward fund account
 - e. Record of payments to be kept
 - f. Remuneration and allowances.
4. Part IV states the submission of ward project proposals that sets out the following:
 - a. Submission of projects
 - b. Submission deadlines
 - c. Approval of projects
 - d. Discretion of Ward Development Fund Committee
 - e. Criteria for projects.
5. Part V provides for the type of projects that may be included for funding under this Act. It also states the number of projects, cost estimates to be realistic, personal awards to be excluded and counterpart funding to be permitted.
6. Part VI states for the establishment of the County Assembly Select Committee. This part explains the following:
 - a. Establishment of the County Assembly Select Committee to oversee the process of receiving and forwarding project proposals
 - b. Quarterly reports on the projects and disbursements.
7. Part VI provides for the procedure to be followed in the implementation of the ward-based projects. Under this part, the Act provides for the procurement of services and work, audit, community initiatives to be eligible and duplication of projects to be avoided.

8. Part VII states the miscellaneous clauses to ensure proper utilization of funds. It sets out offences and penalties against any person who misappropriates funds meant for development projects under this Act, complimentary provisions, and power to dispute resolutions as well as transition.

Comparative Review of the Act

Hon. Speaker, several county governments have enacted and operationalized the County Ward Development Fund in their counties. However, they have encountered a number of challenges over the years particularly within the legal framework of the Act, making it non-executional.

Some of the County Governments that established the Act include the following:

Table 1: Illustration of status of Ward Development Fund Act in different Counties

S/No.	County Assembly	Name of the Act	Year Established	Status
1.	Nairobi	Nairobi City County Wards Development Act	2014	Effective
2.	Nakuru	Nakuru County Ward Development Fund Act	2014	Effective
3.	Elgeyo Marakwet	Elgeyo Marakwet County Equitable Development Fund Act	2015	Effective
5.	Migori	Migori County Ward Development Fund Act	2014	Not operational
6.	Embu	Embu County Ward Development Act	2015	Not operational
7.	Busia	Busia County Ward Development Fund Act	2014	Not operational
8.	Kakamega	Kakamega County Ward Development Fund Act	2014	Not operational
9.	Machakos	Machakos County Ward Development Fund Act	2014	Not operational
10.	Tharaka Nithi	-	-	Is in process

Source: Committee Analysis April, 2023

SUBMISSIONS BY VARIOUS STAKEHOLDERS

Hon. Members, as earlier mentioned, the Committee sought information from various stakeholders through various methodologies including but not limited to joint committee sittings.

DEPARTMENT OF FINANCE AND ECONOMIC PLANNING

The Department made the following submissions:

1. Having realized that the Amended Act could not be operationalized as it was an illegality, the Department established the Grass-root Support Development Programme (Annex iii) in the FY 2015/2016.
2. The main objectives of the Grass-root Support Development Programme were as follows:

- a. To build and expand SDGs by focusing on critical dimensions of sustainable development within the wards and address concerns on vulnerability and exclusion.
 - b. To adopt an inclusive approach to development that utilizes local knowledge to tailor development to specific local conditions
 - c. And to provide a platform through which progress of village/ward based projects could be tracked easily.
3. That a total of Kshs. 280 million was set aside for ward development projects and was distributed among the 35 wards.
 4. That the Department faced the following challenges that hindered and stalled the program's operations:
 - The structure/framework formulated to implement the program was not clearly defined.
 - There have been cases of irregular reporting and auditing queries in the previous financial reports submitted.
 - The Department lacked the capacity to successfully execute the program.
 - That there was duplication of projects experienced in the management of existing county funds, leading to investigations of misuse of established funds.
 5. That a silent arrangement process on the development of wards between the Executive Department of Finance and the County Assembly, and is to be factored in the next financial year.
 6. That the Ward Development Committee and the Executive Department of Finance and Economic Planning should come together and create a well elaborated framework that will enable successful and continuous implementation of ward projects as in 5 above.

COMMITTEE FINDINGS

Based on the foregoing investigations, the Committee therefore made the following findings on each of the key issues as highlighted below:

Guidelines formulated by the Controller of Budget

The Committee finds:

- I. THAT the Department of Finance and Economic Planning did not identify the need for establishment of the fund.
- II. THAT a framework for allocations of funds was never provided for.
- III. THAT there was no evidence that the County Executive Committee Member for Finance presented the proposal on the establishment of the Ward Development Fund to the County Executive Committee for approval.

- IV. THAT the Department of Finance and Economic Planning did not formulate a regulation to establish the fund as stipulated in article 183(2) of the Constitution of Kenya 2010.
- V. THAT there was no proof that an administrator of the fund existed.
- VI. THAT there was unclarity with regards to separation of powers between the County Executive and the County Assembly as provided for in the Constitution of Kenya 2010.

Kisumu County Ward Development Fund (Amendment) Act, 2016

The Committee finds:

- VII. THAT the functions of the County Ward Development Management Committee are an exact replica of the functions of the Select Committee on Ward Development Fund as stipulated in the Kisumu County Assembly Standing Order No. 193 (second schedule).
- VIII. THAT very important stakeholders have been omitted or rather not included in the County Wards Development Management Committee as stipulated in the Kisumu County Ward Development (Amendment) Act 2016 e.g. the Clerk of the County Assembly and the County Attorney.
- IX. THAT the following were not clearly expounded on in the Act:
 - a) The role of the Member of County Assembly vs. the role of the Executive Department.
 - b) Proposals from public participation
 - c) Awarding of contracts
- X. THAT the Act is facing legal and implementation challenges, as it has never met the threshold and intendment of the Public Finance Management (County Governments) Regulations, 2015 therefore hindering the establishment of the Ward Development Fund.
- XI. THAT there has been consistent inequality of funds allocated for project implementation in the ward levels in the previous years (historical injustices).
- XII. THAT there are incomplete and stalled projects due to poor disbursement of funds.
- XIII. THAT there is usually conflict of interest during awarding of contracts/contraction work.

RECOMMENDATIONS

Hon. Speaker, based on the foregoing findings, the Committee makes the following recommendations:

1. THAT based on the legality challenges experienced in the Kisumu County Ward Development Fund Act 2015 and the Kisumu County Ward Development Fund

(Amendment) Act 2016, alternative means of achieving the Committee's objectives be employed:

2. THAT since the implementation of the Ward Development Fund Act has proved unattainable, the committee recommends that this Hon. House to consider the amendment of the Standing Orders to change the name and functions of the 'Ward Development Fund Committee to 'Ward Development Committee' in order to abandon the quest for the operationalization of the illegal 'fund'.
3. THAT Members of this Honourable House should ensure the County Integrated Development Plan (CIDP) is at par with their proposed ward based projects. Further, Members of this Honourable House should mobilize county residents to identify priority projects that are to be implemented.
4. THAT the CECM for Finance and Economic Planning develops, and submits to this House within 90 days upon adoption of this report, a policy framework on equitable distribution of County Government resources and projects based on various socio-economic, demographic, physical and economic indicators for consideration and adoption.
5. THAT the CECM Finance and Economic Planning ensures that all ward based projects are comprehensively included in the overall county planning framework from the County Integrated Development Plan (CIDP), the Annual Development Plan (ADP) and the Annual Budget for continuous monitoring and effective implementation.
6. THAT there should always be good will between the Executive Department and the County Assembly.
7. THAT benchmarking exercises should be done with our sister County Assemblies from Nakuru and Elgeyo Marakwet for best practices on ward development projects and/or its equivalent.
8. AND THAT the National Assembly intervenes and ensures the County Wards Equitable Development Fund be incorporated into the proposed Constitutional Amendment Bill alongside other proposed funds through the petition by the County Assemblies Forum (CAF).

CONCLUSION

Hon. Speaker and Honorable Members, it is now my pleasure to recommend the report from the Standing Committee of Ward Development Fund on the Status of Operationalization of the Kisumu County Ward Development Fund (Amendment) Act, 2016 before this respectable House for adoption. May I call upon Hon. Nyaoke to second.

The Temporary Speaker (Hon. Ajwang. MCA, Kaloleni/Shaurimoyo Ward): Hon. Tom Nyaoke.

Hon. Nyaoke (MCA, North Nyakach Ward): Thank you Madam Speaker. I want to thank the Chair Hon. K'Omudho for the elaborate report presented before this House. I will add very little

on this. I will only talk of the summary of this report as captured in the recommendations. Just in the other session, one of the Honourable Members stood to speak on something that has been adequately dealt with in item number three of the recommendations. That is, the Members of this Honourable House should ensure that the County Integrated Development Plan is at per with the Ward based Projects.

Further, Member of this Honourable House should mobilize the County residents to identify priority projects which they would want to be implemented. Madam Speaker, the most important reason why we are in this House is to bring such development to the people. We are answerable to our people and that is why, I am persuaded that we are headed to the right direction as we discuss this motion. I want to call upon all of us to put our constituents into considerations in our daily programs.

Madam Speaker, if you look at point number four. Recently we just concluded approval of CECs and what we have prayed for since is service to the people which is paramount. Even as we adopt this report today, it should reach relevant officers that those recommendations are adhered to. We do not wish to say that we are going to fail or succeed. I don't want bore this House with much and I request that each and every Member should have a copy of this report and keep it in Ward Offices. I second. Thank you.

The Temporary Speaker (Hon. Ajwang. MCA, Kaloleni/Shaurimoyo Ward): Honourable Members, a report by the Ward Development Committee on the Status of Operationalization of Ward Development Fund (Amendment) Act of 2016 has been moved and seconded by Hon. K'Omudho and Hon. Nyaoke respectively. As per our Standing Orders, I want to propose a question that this motion is open for debate.

The Temporary Speaker (Hon. Ajwang. MCA, Kaloleni/Shaurimoyo Ward): Hon. Alice Wajewa.

Hon. Wajewa (Nominated Member): Thank you Madam Speaker. First of all, I want to start by applauding the Chair of the Committee for the elaborate report. The report was comprehensive and very informative. Thank you.

The Temporary Speaker (Hon. Ajwang. MCA, Kaloleni/Shaurimoyo Ward): Hon. Benny Oiko.

Hon. Oiko (MCA, Kabonyo/Kanyagwal Ward): Madam Speaker, the report by the Ward Development Committee presented today before this House has been a struggle by the MCAs to get direct funding for Ward-based projects. When you go through this report, it gives us no leeway and proper direction that is achievable.

Madam Speaker, if you look at page two of this report. The Constitution of Kenya 2010 and Public Finance Management Act of 2012, there is no clarity that such a fund can be established. Further, on page seven of the report, the guidelines released by Office of the Controller of Budget gives us clarity. The MCAs have been fighting for the establishment of Ward Development Fund Acts which has been done by the Assembly but when it comes to the implementation, we encounter hurdles.

Madam Speaker, when you go to page eight, point three points zero (3.0). That is the House Committee analysis of the amended act which makes necessary amendments that hinder the operations. Those necessary amendments are not enumerated in this report. We are finding it difficult as the Members of the Assembly to get clear guideline and part of the Constitution that we can rely on to establish execute this fund. Now that the Constitution of Kenya 2010 and PFM Act 2012 gives us no leeway of establishing this fund, we have no option. When you go to page ten, we are given 3.2, several County Government have enacted the County Ward Development Fund in their counties. However, they have encountered a number challenges particularly within the legal frame work making it non-executional.

So, when we say it is not achievable, which direction are we taking. There are counties that have made effort to establish this fund and we are told that they are working. In Tharaka Nithi County the act is still in the process. This means that, a way must be found on how we can circumvent the process without making noise. This is how the Members of this County Assembly can find a way of implementing Ward-based Projects. We need to sit down with the Governor on what number of projects can go to the Wards because it is at the Ward will have no problems. It will be assumed that our Kisumu County ward Development Fund Act is operational and yet, it is just our Public Relation and that of the County Executive which values developments that go to the Wards. This is because; it is in our wards that constitute the County. Madam Speaker, if it is argued that way, out people will be glad; they will realize good development at the Ward level.

So, it is upon us as elected Members of the County Assembly to find a way of charting a wayforward by sitting down with the Governor so that we see what reasonable amounts should be appropriated to each and every ward for its development. Madam Speaker, without that, when you imagine that you are going to struggle to realize this Act, we may not make good headway. Madam Speaker, it is my belief that with our people like now that we are in the Budget making cycle, let us get to know by sitting down with our Governor because this should be a PR exercise between elected Members and the Governor. We should not find it difficult so that, we move ahead and inform the people on the ground how concerned the office of the Governor is in relation to the development at the ward level. Madam Speaker, it is my belief that if the wards are not developed, then we will talk of development in this County.

Madam Speaker, if you go to page twelve of the report and look at the amendments of 2016 and the guidelines issued by the Office of the Controller of Budget, we shall make no headways. Madam Speaker, it is in the public domain the MCA are requesting for Ward Development Fund and that is one big disease that the Building Bridges Initiative (BBI) was going o cure, but it failed. The new government equally initiated such kind of amendments that, Ward Development Fund should be enshrined and part of the laws of Kenya and should be operationalized like the Constituency Development Fund (CDF) but, everything has gone silent. The best solution that we can get as MCAs is to have an audience with the Governor in relation to developments going to the wards so that we see reasonable development going to our electoral wards. I beg to support. Thank you.

The Temporary Speaker (Hon. Ajwang, MCA, Kaloleni/Shaurimoyo Ward): Hon. Ouko.

Hon. Ouko (MCA, West Kisumu Ward): Thank you Madam Speaker. Foremost, I would like to applaud the Member of County Assembly who is the Chair of the Standing Committee of Ward

Development for the kind of work they did as a Committee and came up with appropriate guidelines on this matter. Unfortunately, this looks like wishful thinking because if you realize that they conducted a Study tour to compare notes with other sister county assemblies who have successfully established this kind of fund. Madam Speaker, it is so unfortunate that, the law of the land is not inconsonance with this Act. Further, the Constitution of Kenya does not give credence to this Ward Development Fund and this is one of the reasons as to why that all those Counties have not managed to actualize the bill that they passed in their respect County Assemblies.

Madam Speaker, the question is now upon us, is it possible that when we develop good policies concerning this, are they going to be implemented? NO. It is not possible because it is not back up or supported by the Constitution of Kenya. If you can recall, there was a time when this Act was taken to the Senate, and they did their part as required of them. The moment this Act was taken to National Assembly, they shut it down for their own reasons, as we are all aware and know that the MCAs are a threat to the MPs and they may not like the MCAs controlling funds down here thinking that when we do that we are competing with them. It is obvious that we will compete and this is the threat up there.

Madam Speaker, I believe that this is a House of order and what we are doing should be aligned with the Constitution. We have heard a lot on Public Finance Management Act, it is explicit on what should be done when allocating money which it is outside the Act. When the Auditor General ask, the Governor will have to explain a lot on this. The best thing we should do as Members of the Assembly is, if we can talk to our MPs to support us, which in my belief is a tall order, so that we put this into law. Madam Speaker, but for now the development funds will still remain with the Governor. It is our duty now to talk to the Governor so that we can see how to downward equalization fund in a discrete way because it is the only way we can make it.

Otherwise, it is good for us to have good documents like this one we are having and should it happen that this becomes law as it has been identified by National Assembly, we will have a heads start on where to go but now, the best way is to talk to the leadership to have an audience with Governor so that we can get something like what other counties are doing like Karaka Nithi, but we have to accept that it is not anchored into law. Thank you.

The Temporary Speaker (Hon. Ajwang, MCA, Kaloleni/Shaurimoyo Ward): Yes Hon. Ooko the Leader of Majority.

The Leader of Majority (Hon. Ooko, MCA, Ahero Ward): Thank you Madam Speaker. I want to support my colleagues in concurring with the amendments in this report. The main objective of the of this fund is to enable counties to finance projects at ward levels and to bring equality to all the wards despite whether you are supporting the government of the day or not.

Madam Speaker, sometimes back, there were issues that were raised by the Office of the Controller of Budget on how the fund should be established. This is the approval of the fund and how to operate the fund, administration and the role of MCAs and the Executive and the county residence that has been answered here. Madam Speaker the document is very nice but at the moment there are no National laws that advocate for the creation of a County Ward Equitable Development Fund. This is due to the fact that there were some amendments that were to be

done by the National Assembly that is to put the fund in line with the PFM Act in lined with the Constitution of Kenya so that this is not challenged. Madam Speaker, as a result of that, County Assemblies Forum we have pushed for this so that the amendment was to give effect to Chapter 11 of the Constitution of Kenya on the Objects of Devolution which was to take development to the smallest unit of devolution and to promote equitable development across all the wards.

Madam Speaker, I want to say that I listened to the chair present about other Counties that are practicing this and I want to say that as leadership, we are in talks with the Executive so that we can have our internal arrangement to have Ward-based projects and it is my belief that we are at an advanced stage and before end of this week we will have an informal meeting with all the elected members to give them information on this.

Madam Speaker, in fact where we have reached, we are also at per with Counties like Nakuru and Elgeyo Marakwet in terms of the amount. Otherwise, I want to say that I support the amendments and the good work done by the Chairperson of the committee. Thank you.

The Temporary Speaker (Hon. Ajwang, MCA, Kaloleni/Shaurimoyo): Yes Deputy Leader of Majority.

The Deputy Leader of Majority (Hon. Lumumba, MCA, South East Nyakach Ward): Thank you Madam Speaker. As much as I would have wished to contribute to this report most of the Members have spoken and I concur with them that is the way to go. Therefore, that leaves me with nothing to say other than to ask the mover of the motion to reply.

The Temporary Speaker (Hon. Ajwang, MCA, Kaloleni/Shaurimoyo Ward): Yes Hon. Vitalis.

Hon. K'Omudho (MCA, Muhoroni/Koru): Thank you Madam Speaker. I extend my heartfelt appreciation to the Leader of the Majority for their exceptional efforts, as well as to all the Members who took the initiative to positively contribute to this matter. I would also like to express gratitude to those Members whom I personally urged, especially those with whom I often engage in conversations at the lounge, emphasizing the importance of supporting matters that directly impact them when we convene here.

Madam Speaker, it is encouraging to see Members recognizing the significance of actively supporting and addressing issues that hold relevance and value to them personally. This collaborative approach will undoubtedly lead to more fruitful outcomes and progress in these endeavors. Before I reply, I would also like to address the issues raised by both Hon. Ouko and Hon. Pete that; if you read that report, you will find that everything is well captured. We know that we are walking a tight rope because this is something that is against the law. We have also stated the discoveries in this report and we equally gave our recommendations. In those recommendations we requested for the discrete agreement which the Leader of Majority has concurred and we hope that things are on the right track. Thank you.

The Temporary Speaker (Hon. Ajwang, MCA, Kaloleni/Shaurimoyo Ward): Honourable Members, a report on the Adoption Ward Development Committee on the Status of Kisumu County Ward Development Fund (Amendment) Act, 2016 has been moved, seconded and

debated upon by Honourable Members. I therefore want to put a question on the adoption of the same.

(Question put and agreed to)

The Temporary Speaker (Hon. Ajwang, MCA, Kaloleni/Shaurimoyo Ward): Honourable Members, the report on the adoption Ward Development Committee on the Status of Kisumu County Ward Development Fund (Amendment) Act, 2016 is hereby adopted today Wednesday, 24th May 2023 at 3.38 p.m.

Honourable Members, I direct that the recommendation therein and the Hansard report be forwarded to the relevant offices for purposes of implementation. Consequently, that the Implementation Committee to follow up the implementation of the same.

The Temporary Speaker (Hon. Ajwang , MCA, Kaloleni/Shaurimoyo Ward): Next Order!

ADJOURNMENT

The Temporary Speaker (Hon. Ajwang, MCA, Kaloleni/Shaurimoyo Ward): There being no any other business to transact, the House stands adjourned to Thursday, 25th May 2023 at 2.30 p.m.

(House rose at 3.40 p.m.)

Addendum

The Hansard Team

Zablon Otiende – Senior Hansard Reporter (Ag. Editor)

Edward Odanga – Hansard Reporter

Fanuel Okode – Hansard Reporter

Patrick Okoyo – Hansard Reporter

Jacklyne Otieno – Hansard Reporter

Jesca Otieno – Hansard Reporter

Vallery Achieng' – Hansard Reporter