

CHAPTER 5

THE ROLE OF LOCAL GOVERNMENT IN PROMOTING ENVIRONMENTAL RIGHTS

5.1 INTRODUCTION

The previous chapter dealt with the principles of Co-operative Governance and Intergovernmental Relations. It also illustrates how the principle of Co-operative Governance and Intergovernmental Relations is important in dealing with the environmental issues. In this Chapter a focus will be on the role of local government in promoting environmental rights. The White Paper is a policy framework that aims at guiding the municipality in fulfilling its developmental mandate. It provides for, *inter alia*, the co-operation with other spheres of government to realise the constitutional mandate of local government. Developmental local government is an imperative of radical transformation of an apartheid local government afforded an exceptional opportunity to redefine the goals and operational procedures of local government in South Africa. The vantage point of the present model of developmental local government in South Africa is premised on the primacy of linkages between development, service delivery and local citizen participation.

The IDP is one of the key tools for municipalities to cope with their developmental role. In contrast to the role which planning has played in the past, the IDP is currently seen as a function of municipal management and part of an integrated system of planning and delivery. The IDP has a legal status and supersedes all other plans for local development, and is meant to arrive at decisions on issues such as municipal budgets, land management, economic development and institutional transformation in a consultative, systematic and strategic manner. From international law instruments and jurisprudence on environmental rights it is evident that environmental rights cannot be fulfilled by a state in the absence of the gathering and sharing of environmental information. For a performance management system to be effective in improving the total effectiveness of local government, it would appear that the bureaucratic culture of

local government would need to be developed into a more appropriate organizational culture. The desired organizational culture envisioned by the legislation where the focus is on the development of a culture of accountability and the aligning and organizing of the administration in such a way that it is flexible and responsive to the needs of the community.

5.2 LEGAL FRAMEWORK ON THE ROLE OF MUNICIPALITIES IN IMPLEMENTING ENVIRONMENTAL RIGHTS

The 1996 Constitution is the supreme law of the country and forms a basis for the promotion of the environmental rights by the local sphere of government. The White Paper on Local Government and the Municipal Systems Act contain provisions that enjoin local government to promote the fundamental rights to environment.

5.2.1 Constitution

Chapter 7 of the 1996 Constitution of the Republic of South Africa deals with the local government. In terms of section 152 of the 1996 Constitution, the objects of local government are:

- To provide democratic and accountable government for local communities;
- To ensure the provision of services to communities in a sustainable manner;
- To promote social and economic development;
- To promote safe and healthy environment; and
- To encourage the involvement of communities and community organization in the matters of local government

Section 153 of the 1996 Constitution provides that a municipality must:

- Structure and manage its administration and budgeting and planning process to give priority to the basic needs of the community, and to promote the social and economic development of the community;
- Participate in national and provincial development programmes.

In discussing the Constitutional Court case of *Fedsure Life Insurance Ltd V Greater Johannesburg Metropolitan Council* 1998(12) BCLR 1458 (CC) which was decided under the 1993 Interim Constitution, Steytler and De Visser (1999:7) aver that the decision establishes authoritatively the position of local government. First, local government is an autonomous sphere of government, its powers are derived from the Constitution and are no longer delegated from the national or provincial government. Second, although municipal council's legislative acts are not administrative acts and are therefore not reviewable in terms of administrative law and they remain nevertheless subject to the principle of legality and can be reviewed for compliance with the Constitution and other legislation. Third, the exercise of municipal taxing and spending powers constitutes a legislative act.

5.2.2 White Paper on Local Government

According to White Paper on Local Government (1998: 18), the characteristics of developmental local government are:

- Maximizing social development and economic growth (stimulating local economies and job creation);
- Integrating and co-ordinating (mainly through Integrated Development Planning);
- Democratizing development (harnessing the input and energy of local citizens);
and
- Leading and learning (building social capital at the local level to enable local solutions to development problems).

The White Paper on Local Government (1998) process rallied friends and foes around new concepts and it introduced terminology that would reverberate until long afterwards. It translated the objects of section 152 and 153 into the term “developmental local government” and defined the new mandate as local government committed to working together with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives (De Visser 2005: 72). The White paper is a policy framework that aims at guiding the municipality in fulfilling its developmental mandate. It provides for, *inter alia*, the co-operation with other spheres of government to realise the constitutional mandate of local government (Ababio and Mahlatsi 2008:351).

5.2.3 Local Government: Municipal Systems Act No. 32 of 2000

The aim of the Systems Act, Act No.32 of 2000, is to provide for the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local economies, and to ensure universal access to essential services that are affordable to all and for overall social and economic upliftment of communities in harmony with their local natural environment. Section 4 of the Systems Act provides that duties of municipal councils are to, *inter alia*:

- Exercise the municipality’s executive and legislative authority and use the resources of the municipality in the best interests of the local community;
- Encourage the involvement of the community;
- Strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner;
- Give members of the local community equitable access to the municipal services to which they are entitled;
- Promote and undertake development in the municipality;
- Promote a safe and healthy environment in the municipality; and

- Contribute, together with other organs of state, to the progressive realization of the fundamental rights to environment; property; housing; health care, food, water, social security; and education.

5.3 DEVELOPMENTAL LOCAL GOVERNMENT

Steytler and De Visser (2007:1-28) posit that local government is the key site of service delivery and development and is central to the entire transformative project of the new South Africa. It is also in the area of service delivery that local government is confronted most sharply with the legacy of apartheid. Nyalunga (2006: 19) submits that it is not difficult to understand why local sustainable development is a major issue in South Africa today. Local level actions have not been good enough. At the local–community level poverty is still deepening, local environments are under threat and local governance is hitherto in crisis. The multi-faceted responsibility of local government to deliver services to their communities and promote local economic development has a long way to go. Municipalities thus face enormous challenges to fulfil the developmental mandate given to them by the new Constitution. They also face challenges to transform completely apartheid institutional structures.

Reddy *et al* (2005: 51) argue that given the historical legacy and resultant developmental challenges, limited resources and capacity, it can be said that the new municipalities have made reasonable progress in discharging their constitutional mandate. However, they have to become much more effective in terms of enhancing service delivery and facilitating good local governance. National and provincial government together with all the other key roleplayers and stakeholders will have to play a supportive role in ensuring that the developmental vision of local government will become a reality. The government has set clear targets and deadlines for the provision of basic services and is committed to the development of financial and human resources capacity at the local level.

Mathews and Ohadi (2008: 751) submit that as global demographic trends and poverty significantly impact on cities and necessitate a response from local leaders, it is necessary to disseminate poverty alleviation and development efforts from the national sphere to sub-national and the municipal level to ensure the poor are being met at their place of need. This reallocation of developmental authority will require significant capacity building to equip local officials with tried and tested models for strategic planning, implementation, and monitoring to effectively equip local leaders with the resources and planning techniques necessary to respond to a growing and changing city. Achieving poverty alleviation and development goals at the local sphere requires capacity development centred on the co-operation of different arms of local government, domestic business and civil society in decision making to enhance a community's ability to design, deliver and monitor policies. In localising development efforts, the first step is typically the assessment of the capacities of municipal administration. This benchmarking of the local community enables stakeholders to determine strengths, gaps and roles in service delivery and sets the stage for effective and targeted solutions.

Baatjies and Tredoux (2009: 24) are of a view that the march towards developmental local government is not, and will never be, a linear one. There must be recognition in our policy and legislative approach that municipalities, rooted in their particular historic, spatial and economic circumstances, are at different stages of their own development cycle, and they must be treated accordingly. Over complexity should be avoided as far as possible. The effects of national and provincial policy incoherence is inevitably manifested and experienced at the local government level. But local governments are the recipients, not the architects, of the systemic flaws. Any interventions should accordingly be addressed at the root, rather than the fruit of the tree. Additional support, evaluation and oversight will do little to mitigate the effects of these flaws.

The socio-economic rights enshrined in the Bill of Rights of the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996) bind all organs of government including municipalities. More specifically, the socio-economic rights that have particular

relevance to local government are the right of access to adequate housing, health care, sufficient food and water, and social security. The resultant positive impact of these obligations is that provision of basic services has been constitutionalised in terms of the developmental mandate of local government. The key consideration is to assist the poor by addressing their socio-economic needs which have been constitutionalised and which are as much part of the widespread problem of poverty and inequality inherited from the past. It should be noted that the provision of basic services is a recurring theme in subsequent legislation giving effect to the constitution. The Local Government: Municipal Systems Act of 2000 in detailing the functions of municipalities mentions socio-economic rights, which are also regarded as an integral part of municipal planning. It defines a basic municipal service 'as a service that is necessary to ensure an acceptable and reasonable quality of life and, if not provided would endanger public health or safety or the environment'. This includes, inter alia, water, sanitation, local roads, stormwater drainage, refuse collection and electricity (Reddy *et al* 2005:45).

Developmental local government similarly to the developmental state is a state where politics assure that power, autonomy and capacity are centralised in order to achieve explicit developmental goals. In essence developmental local government is direct and enables economic growth. According to the White Paper on Local Government, developmental local government is municipal government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic, and material needs and improve the quality of their lives. This paradigm shift institutionalises development policy at the local sphere by weaving thorough local democratic agenda to development imperative. Developmental local government is an imperative of radical transformation of an apartheid local government afforded an exceptional opportunity to redefine the goals and operational procedures of local government in South Africa. The vantage point of the present model of developmental local government in South Africa is premised on the primacy of linkages between development, service delivery and local citizen participation, and is defined as the organised effort to increase control over resources and regulative institutions by

(community) groups and movements, especially those excluded from such control in the past (Tshishonga and Mafema 2008: 362).

5.4 COMMUNITY PARTICIPATION

Thornhill (2008: 502) submits that should be obvious that the new approach to democratising local government goes far beyond the normal practice of only elected representatives acting on behalf of a community. Communities are no longer excluded from the governing function and do not only play a role at elections and are then sidelined. They could actively participate in a variety of issues. Mofolo and Smith (2009: 439), invoke the principles of 'Batho Pele' as guidelines in encounters with individuals in 'across the counter' service and as a communication tool with individual groups, and community members at the residential areas/wards. In this way, municipalities should be flexible, proactive and more resident-oriented. Sefala (2009: 1165) argues that without community participation, democratic developmental local government will cease as a democracy. Participatory democracy insists, therefore, that community participation should be encouraged by those in power.

Barichiev *et al* (2005: 378) suggest that local government representatives should feel more accountable to local communities than national or provincial representatives, thereby deepening popular influence over local government. Of course there is the danger that gains in political equality secured by the first-past-the-post system could be offset by losses of exclusion of minorities. However, given that half the seats are awarded on a first-past-the-post system and half on the proportional representation system, it seems reasonable to assume that the costs of greater accountability will be minimal. According to Heydenrych (2008: 709), participatory democracy can be viewed as a healthy form of democracy, perceived to be closer to the core of democracy than the other forms of democracy as mentioned earlier. Further-more, participation is a democratic right and changes in the structures of politics are required to enhance citizen involvement. Also, when democratisation is fundamental, as is the case in South Africa, liberalisation must be closely associated with participation in order to consolidate

democracy. Democratisation can be argued to be a process that builds on itself in developing a community, cultivating public interest as opposed to fostering isolated individualism. Lastly, public participation must be a balanced phenomenon, the exercise of which must not move towards anarchy and away from democracy. Therefore, the continuum of public participation is important; there must be a considered development moving from persuasion to empowerment, noting that simultaneous application of different levels of participation in the same or different settings is possible as well.

Singisa (2008: 30) writes that public participation is also linked to freedom of expression, underlining the interconnectedness of civil and political rights with socio-economic rights. Accountability, it was noted, leads to progress in socio-economic rights through freedom of expression, and the reverse leads to underperformance. Thus the ability to demand explanation and justification for actions guarantees the promotion and protection of socio-economic rights. With regard to access to information, and echoing the concerns of most people protesting against housing, participants argued that some of the service delivery protests were not necessarily about poor housing delivery, but a demand for information about housing waiting lists. Waiting lists, it was suggested, should be made available to the public to ensure transparency. Du Plessis (2008: 12) perceptively observes that public participation in environmental decision-making (and hence the furthering of environmental rights) is regarded as important for different reasons:

- Affected persons likely to be otherwise unrepresented in, for example, environmental assessment and decision-making processes are provided an opportunity to present their views;
- Communities may provide useful additional information to decision-makers – especially when cultural, social or environmental values are involved that cannot be quantified easily;
- Accountability of political and administrative decision-makers is likely to be reinforced if environmentally relevant processes are open to public view.

Openness puts pressure on administrators to follow, for example, a required procedure in all cases;

- Without integrating the viewpoints of citizens, environmental policy runs the risk of being delayed early in the implementation phase. Public participation enhances community ownership of decisions and resultant outcomes because of the community being part of the wider decision-making process;
- Stakeholder engagement may result in partnerships or alliances between interested parties and local government; and
- Public confidence in the reviewers and decision-makers is enhanced since citizens clearly can see in every case that all environmentally-relevant issues have been fully and carefully considered.

Reddy and Sikhakane (2008: 683) are of a view that ward committees are faced with the same challenges faced by other participatory structures in the South African context, namely:

- democratic practices are new and people do not know how to engage constructively with government and development agencies as they do not realise they are the backbone of development in their areas;
- low literacy levels have meant that the local population cannot comprehend some of the issues and technical aspects of decisions taken and also cannot make meaningful contributions;
- participation is voluntary and time-consuming and requires individual commitment on the part of citizens while high levels of unemployment and poverty elicits high expectations of employment and citizens should be made aware that community work is voluntary so that they do not harbour expectations of employment;
- professionals are reluctant to participate on a voluntary basis although ideally, professionals with specific skills and knowledge could add value to their areas of expertise if they participate voluntarily; and

- inadequate capacity, organisational guidance and resourcing can hinder meaningful participation, resulting in internal conflicts and even the collapse of the participatory structures.

Reddy and Sikhakane (2008: 683) further submit that municipalities have to devise strategies to enhance active community participation. This could help to overcome civic apathy which is an ongoing problem particularly in rural communities. Du Plessis (2008: 14) writes that the explicit link between public participation and the fulfilment of environmental rights cannot be reviewed without mentioning the role of environmental information. Environmental information relates to the idea of *publicare* and accordingly compliments and supports public participation. From international law instruments and jurisprudence on environmental rights it is evident that environmental rights cannot be fulfilled by a state in the absence of the gathering and sharing of environmental information. Emanating from the right to the environment, the Aarhus Convention clearly outlines the need for and the content of the right to have access to environmental information.

According to De Beer (2009: 64), despite all the good intentions of the international community, national governments and NGOs, and notwithstanding the millions of dollars being pumped into conservation by way of community projects, failure seems to be the rule rather than the exception. This may be attributed to ignorance of community needs, unrealistic expectations with regard to communities and their capacities, fervour in promoting the conservation agenda, unrealistic time frames and budgets, and inappropriate expectations with regard to non-specialist staff working with communities in participatory processes. Govender *et al* (2007: 71) write that participatory democracy is there to complement the politically legitimate and legally responsible structures. A community participatory structure such as a ward committee, for instance, may add to the formal structures of government, but may not replace or substitute them. Ababio (2007: 618) submits that sectoral participation must transcend narrow political, ethnic, racial and class affiliations, and reflect the demographics of the ward. While the composition promotes organized democracy, it also ensures that members of ward

committees promotes represent broader community lines and not specific party interest. Govender *et al* (2007: 77) perceptively observe that local governments tend to avoid establishing uniform and formal participative structures. Possible reasons for this may be the unevenness of civil society formations and the lack of capacity of all municipalities to implement participative forms of development planning.

Table 5.1 Spectrum of participation and levels of impact:

Increasing levels of public impact through participation				
INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
Public participation goal	Public participation goal	Public participation goal	Public participation goal	Public participation goal
To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and identification of the preferred solution.	To place final decision making in the hands of the public.
Promise to the	Promise to the	Promise to the	Promise to the	Promise to the

Public	Public	Public	Public	Public
We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and issues are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
Example tools: Fact sheets Websites Open houses	Example tools: Public comment Focus groups Surveys Public Meetings	Example tools: Workshops Deliberate polling	Example tools: Citizen advisory committees Consensus building Participatory decision making	Example tools: Citizen juries Ballots Delegated Decisions

Source: Govender *et al* (2007:70)

5.5 INTEGRATED DEVELOPMENT PLAN (IDP)

Section 35 of the Local Government: Municipal Systems Act (2000), Act 32 of 2000 provides that an integrated development plan adopted by the council:

- is the principal strategic planning instrument which guides and informs all planning and development, and all decisions with regard to planning, management and development, in the municipality,
- binds the municipality in the exercise of its executive authority, except to the extent of any inconsistency between a municipality's integrated development plan and national or provincial legislation, in which case such legislation prevails; and
- binds all other persons to the extent that those parts of the integrated development plan that impose duties or affect the rights of those persons have been passed as a by-law.

Section 36 provides that municipality must give effect to its integrated development plan and conduct its affairs in a manner which is consistent with its integrated development plan. Section 25 of the Local Government: Municipal Systems Act (2000), Act 32 of 2000 provides that:

- Each municipal council must, within a prescribed period after the start of its elected term, adopt a single, inclusive and strategic plan for the development of the municipality which –
 - Links, integrates and co-ordinates plans and takes into account proposals for the development of the municipality;
 - Aligns the resources and capacity of the municipality with the implementation of the plan;
 - Forms the policy framework and general basis on which the annual budget must be based;

- Complies with the provisions of IDP; and
 - Is compatible with national and provincial development plans and planning requirements binding on the municipality in terms of legislation.
- An integrated development plan may be amended and remains in force until an integrated development plan is adopted by the next elected council
 - a newly elected municipal council may, within the prescribed period, adopt the integrated plan of its predecessor,
 - A municipality must, within 14 days of the adoption of its integrated development plan –
 - Give notice to the public –
 - Of the adoption of the plan; and
 - That the copies of extracts from the plan are available for public inspection at specified places; and
 - Publicize a summary of the plan.

Section 26 of the Municipal Systems Act provides that an integrated development plan must reflect-

- The municipal council's vision for the long term development of the municipality with special emphasis on the municipality's most critical development and internal transformation needs;
- An assessment of the existing level of level of development in the municipality, which must include an identification of communities which do not have access to basic municipal services;
- The council's development priorities and objectives for its elected term, including its local economic development aims and its internal transformation needs;

- The council's development strategies which must be aligned with any national or provincial sectoral plans and planning requirements binding on the municipality in terms of legislation;
- A spatial development framework which must include the provision of basic guidelines for a Land use management system for the municipality
- The council's operational strategies
- Applicable disaster management plans;
- A financial plan, which must include a budget projection for a least the next three years; and
- The key performance indicators and performance targets determined.

Traditional local government planning practices are being replaced by modern planning techniques to enable local government officials to respond effectively to changes in the municipal environment. New planning models are evolving throughout the world to capacitate local government officials to optimise their resources in executing their functions. One such planning model is integrated development planning in South African local government (Van Rooyen 2001:70). The IDP is one of the key tools for municipalities to cope with their developmental role. In contrast to the role which planning has played in the past, the IDP is currently seen as a function of municipal management and part of an integrated system of planning and delivery. The IDP has a legal status and supersedes all other plans for local development, and is meant to arrive at decisions on issues such as municipal budgets, land management, economic development and institutional transformation in a consultative, systematic and strategic manner (Malefane and Mashakoe 2008: 475).

According to Atkinson (2002: 23), a fundamental problem is that many municipalities have not secured significant levels of interest of national or provincial line departments in the IDP-writing process. Reports from many municipalities refer to the difficulties in getting representatives of sectoral departments to attend meetings, or if they attend, to get any meaningful contributions or contributions from them. Admittedly, this an ambitious challenge, as sectoral departments tend to be bound by their own policies,

programme priorities and predetermined budgets. Furthermore, many departments lack the human resources to attend and participate in numerous municipalities' IDP processes. The problem of inter-sectoral co-ordination remains a massive challenge – not only in South Africa, but throughout the world. What is a matter of serious concern, however, is how rare it is to find South African sectoral departments even beginning to be aware that their activities may be in any way related to the IDP processes going on at municipal level. There is clearly a massive re-orientation required for sectoral departments to recognize the far-reaching developmental role and authority of municipalities.

Mashamba (2008: 426) submits that a functional IDP process is the one which is able to identify the real needs of the people and break them down into sectoral issues (e.g. water, health, electrification and housing). The effective management of the IDP process can, thus, be defined as the ability of municipal stakeholders to harmonise responses to the priority issues in terms of balanced resource allocation and programmatic implementation of developmental projects coupled with mechanisms to monitor cost effectiveness *vis a vis* impact (doing more with less and reducing duplication and wastage in utilising the limited resources at the disposal of municipalities).

Integrated development planning can be described as a strategic framework to assist metropolitan governments to fulfil the sustainable development requirements set by Agenda 21. Integrated development planning, however, could also be regarded as a planning process to enable metropolitan governments to determine and establish short, medium and long term strategies (Odendaal 2003: 54). Sowman and Brown (2006: 709) submits that the IDP process represents a significant shift away from past planning approaches in South Africa that were largely technocratic and sectoral, and that failed to incorporate the views of local people. Increasingly, IDPs display a strong move towards a more integrated and participatory approach to local planning. The legal requirement that all sectors and interested parties be consulted has led to improved communication and co-operation between different sectors and spheres of government and between

traditional authorities and the newly established local authority structures. Such integration and participation are essential precursors for consideration of environmental and sustainability issues. Van Rooyen (2001: 75) submits that the principles of integrated environmental management should be followed in municipalities during their integrated development planning and that brownfields are implied in the reference to remedies to existing environmental pollution. This means that integrated environmental management could in practice be fused with integrated development planning as the implementation thereof could easily be done according to the integrated environmental model.

Table 5.2: The Principle of Integrated Environmental Management

- Informed decision-making
- Accountability for information on which decisions are based
- Accountability for decisions made
- An open, participatory approach in the planning of proposals
- Thorough consultation with interested and affected parties
- Due consideration for alternative proposals or options
- Attempts to mitigate negative impacts and enhance positive aspects of proposals
- Democratic regard for individual rights and obligations
- The opportunity for public and specialist input in the decision-making process
- An attempt to ensure that the social costs of development is outweighed by the social benefit thereof
- Compliance with these principles during all stages of the planning, implementation and decommissioning of proposals

Source: Van Rooyen (2001: 74)

5.6 PERFORMANCE MANAGEMENT SYSTEM

Vatala (2005: 227) submits that an integrated development plan is a communication tool that is driven and owned by communities. In this instance it must be drafted in simple and clear language that is understood by ordinary people. Thus an integrated

development plan is assumed to be a product of public consultation and engagement with communities and other relevant stakeholders who participated in its draft, review and adoption by the municipal council. He discusses dimensions of performance. The dimensions assist in understanding the process of improving organisational performance. It also illustrates why there is some confusion about the various definitions of performance – it depends on which dimension the focus is. These dimensions may, however, contradict one another, for example: to improve performance effectiveness of outputs it may be necessary to change or modify work methods, which in turn could negatively affect the motivational climate. Performance management is an approach to management that harnesses the endeavours of individual managers and workers to an organisation's strategic goals. It defines goals and the outputs needed to achieve those goals, it gains the commitment of individuals or teams to achieve those outputs and monitor outcomes.

Kroukamp (2007: 25) is of the view that despite the fact that much progress has been made in terms of the mandate of local government in respect of rationalising functions, structures, legislation and resources, emphasis can also be placed on the use of non-financial measures such as product quality and customer satisfaction to ensure better long-term performances by local government as this will assist managers to refocus on the long-term aspects of their actions. Non-financial measures are significantly associated with future financial performance as they contain additional information not reflected in past financial measures. Both financial and non-financial measures for improved performances are therefore proposed.

Pearse and Williams (2009:34) note that changes within the local government legislative framework that had reached the implementation stage were creating a climate of uncertainty and anxiety amongst staff. The restructuring and amalgamation process was one instance of this. However, the culture of fear that was developing seemed to be driven by two main factors: the leadership of the metropolitan municipality, and the introduction of the performance management system itself. Pearse and Williams (2009:36) further note that it is evident that the culture of fear has impacted on the

implementation of the performance management system, as the implementation process was perceived as not being sensitive to the difficulties and the feelings of fear experienced by the Directors and other employees. Furthermore, the introduction of performance management system only served to reinforce the culture of fear.

Van Der Waldt (2006: 139) discussed some of the hindering issues in the performance of the municipalities. He indicated that political factors often outweigh management rationale in local government decision making. Although councillors frequently bemoan the growing bureaucracy and promise to cut red tape and taxes while improving services, once in office they typically find the tedious, time-consuming, and often frustrating task of productivity improvement to be less glamorous or appealing than addressing other municipal problems or opportunities. Councillors tend to weigh decisions according to a time horizon only as distant as the date of the next election. Not surprising, they generally resist dealing with controversial issues when an election nears and are reluctant to favour programmes with high short-term costs and the promise of major gains only in the long run – characteristics common to many performance improvement projects. Policy issues usually also receive more attention than internal performance issues. Councillors may also tend to avoid union conflict – especially if the unions are against the performance management system proposed.

5.7 SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)

The Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (hereinafter referred to as “MFMA”) defines a Service Delivery and Implementation Plan (SDBIP) as a detailed plan approved by the mayor of a municipality in terms of section 53(1)(c)(ii) for implementing the municipality’s delivery of municipal services and its annual budget, and which must include –

- projections for each month of –
 - revenue to be collected by source; and
 - operational and capital expenditure by vote;

- service delivery targets and performance indicators for each quarter; and
- any other matters that may be prescribed and includes any revisions of such plan by the mayor in terms of section 54(1)(c).

The Service Delivery Budget and Implementation Plan (SDBIP) seeks to ensure effective monitoring of the execution of the budget, the performance of senior management and the achievement of service delivery objectives set by Council. It therefore serves as a 'contract' between the administration, council and community, expressing the goals and objectives set by council as quantifiable outcomes that can be implemented by the administration over a one year period (Mahlatsi 2005: 10). According to Kanyane and Mabelane (2009: 61), performance management could be considered as a system that provides a link between the strategic objectives of a department and the actual performance of an individual. However, the whole process is defeated if the department or rather the whole organisation suffers from skill inadequacies. Figure 5.1 illustrates the process for preparing and approving the SDBIP.

According to De Visser (2007: 11), the link between SDBIP's and performance agreements is important. It improves the municipality's capacity to monitor implementation of the IDP and to act on any problems in implementation. It also simplifies the difficult task of concluding objective, rational performance that link the performance of top managers directly with the performance of top managers directly with the municipality's IDP. Once a credible SDBIP has been adopted, the content of much of the performance agreements with senior management flow logically from it. Section 23 of the Local Government: Municipal Performance Regulations for municipal managers and managers directly accountable to municipal managers, 2006 provides that the purpose of the performance agreements is to:

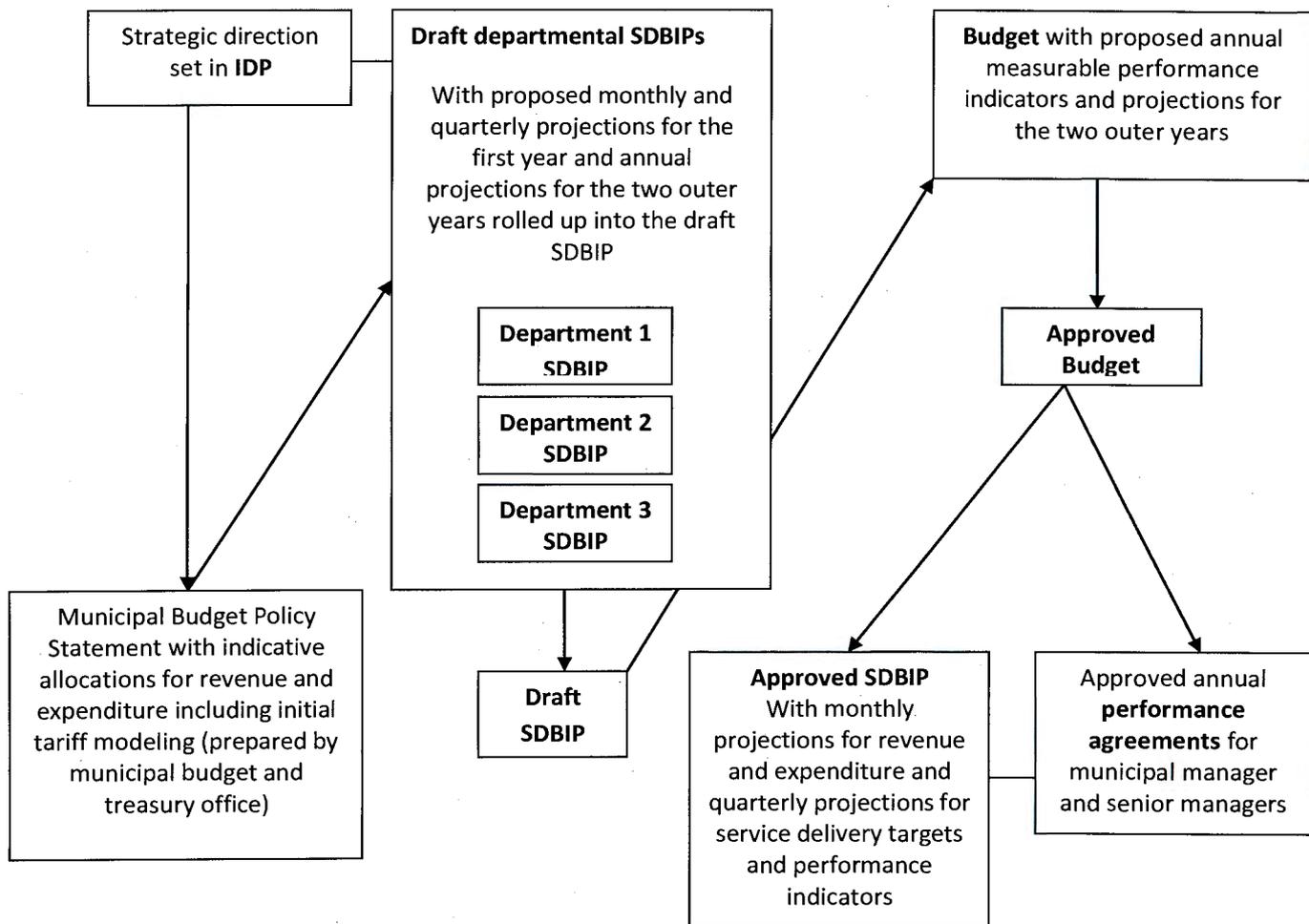
- comply with the provisions of Section 57(1)(b),(4A),(4B) and (5) of the Act as well as the employment contract entered into between the parties;

- specify objectives and targets defined and agreed with the employee and to communicate to the employee the employer's expectations of the employee's performance and accountabilities in alignment with the Integrated Development Plan, Service Delivery and Budget Implementation Plan (SDBIP) and the Budget of the municipality;
- specify accountabilities as set out in a performance plan, which forms an annexure to the performance agreement;
- monitor and measure performance against set targeted outputs;
- use the performance agreement as the basis for assessing whether the employee has met the performance expectations applicable to his or her job;
- in the event of outstanding performance, to appropriately reward the employee; and
- give effect to the employer's commitment to a performance-orientated relationship with its employee in attaining equitable and improved service delivery.

These regulations specifically provide that the key performance areas of the municipal managers are:

- Basic Service Delivery
- Municipal Institutional Development and Transformation
- Local Economic Development
- Municipal Financial Viability and Management
- Good Governance and Public Participation

Figure 5.1 Process for preparing and approving the SDBIP



Source: National Treasury (2006:85)

5.8 THE ROLE OF LOCAL GOVERNMENT IN RELATION TO ENVIRONMENT

Van Rooyen and Naidoo (2008: 738) aver that a municipality is responsible for the development of relevant local by-laws to ensure that all the relevant environmental aspects are governed within a legislative framework that is in line with national and provincial principles. A municipality also has an executive function (including co-governance arrangements) that is linked with law enforcement functions. This refers specifically to environmental aspects such as air pollution, land use management and waste management. Protecting the global common good is also an important element of this function. Van Rooyen and Naidoo (2008: 739) further submit that the municipality is involved in a whole range of activities, handling of products and rendering of services. It is also either the owner or user of facilities that have or may have significant impacts on the environment. These activities and assets also require environmental management and compliance. Improved eco-efficiency, linked with socio-economic development, poverty reduction and legal compliance are the key issues at stake.

The contradictions between neo-liberal macro-economic policies and developmental goals such as those enshrined in better basic service delivery at local government level as a way of extending socio-economic rights show themselves in the way in which resources are allocated and used, as well as the attention paid to making services work for the poor. What are increasingly referred to as brown environmental problems – brown being more appropriate ... to describe the kinds of environmental problems associated with backed up sewage and dusty, treeless streets – are perhaps the single most important environmental problems in South Africa today, and the provision of basic municipal services like sewerage and sanitation are arguably the single most important environmental initiative that the new South African government can take (Thompson and Nleya 2008: 120).

According to Nealer (2009: 77), in the local government sphere of the developing South Africa, the effective, efficient and economical municipal management of potable water supply also entails the execution of highly complex hydrological, geo-hydrological and

public management functions in a very dynamic and highly regulated environment. It, *inter alia*, entails the conserving of suitable water resources by firstly identification, surveying, and demarcation of such resources and then subsequently, the development, transport, treatment, distribution, imposition of tariffs, municipal administration, recollection of the used water, treatment and final release of the wastewater back into the water catchment for use by other downstream users. In addition, the nature and impact of the physical environment are also difficult to manage. It, therefore, requires the municipal managers, leading officials as well as the committed political office bearers to be equipped with specific knowledge and information regarding the physical environment and utilise geographical mapping tools in order to improve their long-term planning skills.

Sowman and Brown (2006: 709) both planners and environmental management specialists will need to become better attuned to the underlying philosophies, conceptual frameworks, guiding principles, methodological approaches and legislative requirements of the other profession. Incorporation of environmental management dimensions in the curricula of planners and including planning modules in environmental management courses would be an obvious starting point. However, mainstreaming will only take place once there is a common understanding of the concept of sustainable development and when 'environment' is addressed as a cross-cutting issue. Thus, urgent attention will need to be given to building capacity in the environmental management and sustainability fields amongst existing IDP managers and relevant sector officials through short courses and continuing education programmes. Raising awareness of politicians, non-governmental organisations and community groups participating in these processes, will also be necessary so that the vision, strategies, programmes and projects, that emanate from these IDP processes, contribute to sustainability goals. Sowman and Brown (2006: 709) further submit that mainstreaming will only be achieved when individuals move beyond their professional biases and sectoral foci, and show a willingness to embrace new ideas, alternative approaches and modes of operation. This will require commitment, boldness and a willingness to work outside traditional 'comfort zones'. It may also lead to the restructuring of departments

and changes to institutional arrangements. However, overcoming fear of change and being willing to experiment with new ideas, alternative approaches and systems, will be necessary steps for local government in South Africa to make a break with the past and embark on a path more aligned to sustainable development.

Van Wyk (2007: 74) submits that the different statutes containing differing procedures, the various authorities, the duplication and the possible uncertainty and confusion all motivate towards a less fragmented and more rational system to determine the impact of land development on the environment. As part of the process of integrated development planning a single system of environmental assessment could accommodate the different processes. This could comprise part and parcel of a competent and strong local government's role of integrated development planning. This vision is underpinned by principles in the 1996 Constitution, by the process of integrated development planning and by the *White Paper on Spatial Planning*. Van Wyk (2007: 78) further submits that planners and developers are sometimes loathe to take sufficient cognizance of the importance of environmental issues in land use planning. In the face of sufficient opportunities to exploit many of the loopholes created by the current legislative structures, it is proposed that the legislature take a fresh look at possible ways of facilitating the integration of land use planning and environmental demands. Van Rooyen (2001: 64) perceptively observes that the objectives of developmental local government could therefore only be achieved if environmental sustainability and sustainable community development are ensured simultaneously.

Watts and Faasen (2009:27:) write that South Africa's preceding policy and legal frameworks for environmental sustainability through collaborative management are influenced by multilateral and regional environmental agreements. For example, Article 10(f) of the United Nations Convention to Combat Desertification requires parties to provide for effective participation of resource users in the policy planning, decision-making and implementation and review of national action programs. Article 4(b) of the convention's Annex I for regional implementation for Africa emphasizes the active participation of local populations and communities through greater decentralisation and

security of resource tenure rights. Similarly, Article 4 of the United Nations Framework Convention on Climate Change encourages cooperative conservation and enhancement of sinks and reservoirs for greenhouse gases (United Nations, 1993). Consequently, the United Nations Office in South Africa disburses Global Environmental Facility grants to local communities that protect forest resources. The purpose of these grants is to promote the active participation of local communities in environmental protection through forest conservation. The United Nations Convention on Biological Diversity further emphasises equitable sharing of benefits. It encourages the recognition, respect and preservation of knowledge, innovations and practices of indigenous and local communities. Article 7(j) states that the use of traditional lifestyles relevant for the conservation and sustainable use of biodiversity should occur with the approval and involvement of local communities. Article 10(c) informs governments to protect and encourage customary use of biological resources (United Nations, 1993). It is thus explicit that the Convention on Biological Diversity like the preceding ones promotes the active involvement of local communities in the conservation and sustainable management of natural resources.

Van Rooyen and Naidoo (2008: 740) are of a view that many municipalities have realised that their current activities and the practices that are taking place in their areas of jurisdiction may be environmentally unsustainable and a paradigm shift is necessary. For a municipality to be sustainable, environmental issues must be addressed as an integral part of the planning and operation of the IDP. An environmental strategy and policy is a starting point for municipalities to integrate environmental aspects into their operations. An environmental management system (EMS) has been recognised as an important tool to operationalise environmental strategies and policies to improve environmental management performance of organisations. Tables 5.4 and 5.5 illustrate the differences between traditional management and ecocentric management, and ecological perspective and management perspective, respectively.

Table 5.3: Traditional Management Versus Ecocentric Management

Traditional Management	Ecocentric Management
Goals: <ul style="list-style-type: none"> - Economic growth and profits - Shareholder wealth 	<ul style="list-style-type: none"> - Sustainability and quality of life - Shareholder welfare
Values: <ul style="list-style-type: none"> - Anthropocentric - Rationality and packaged knowledge - Patriarchal values 	<ul style="list-style-type: none"> - Biocentric or Ecocentric - Intuition and understanding - Postpatriarchal feminist values
Products: <ul style="list-style-type: none"> - Designed for function, style and price - Wasteful packaging 	<ul style="list-style-type: none"> - Designed for environment - Environment friendly
Production Systems: <ul style="list-style-type: none"> - Energy and Resource intensive - Technical efficiency 	<ul style="list-style-type: none"> - Low energy and resource use - Environmental efficiency
Organisation: <ul style="list-style-type: none"> - Hierarchical structure - Top-down decision-making - Centralised authority - High-income differentials 	<ul style="list-style-type: none"> - Nonhierarchical structure - Participative decision-making - Decentralised authority - Low-income differentials
Environment: <ul style="list-style-type: none"> - Domination over nature - Environment managed as resource - Pollution as waste are externalities 	<ul style="list-style-type: none"> - Harmony over nature - Resources regarded as strictly finite - Pollution and waste elimination management
Business functions: <ul style="list-style-type: none"> - Marketing aims at increasing consumption 	<ul style="list-style-type: none"> - Marketing for consumer education - Finance aims at long-term

<ul style="list-style-type: none"> - Finance aims at short-term profit maximization - Accounting focuses on conventional costs - Human resource management aims at increasing labour productivity 	<p>sustainable growth</p> <ul style="list-style-type: none"> - Accounting focuses on environmental costs - Human Resource management aims to make work meaningful and safe
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Source: Van Rooyen (2001: 69)

Table 5.4 Ecological Perspective Versus Management Perspective in water quality

Class	Ecological perspective	Management perspective
Natural	Minimal or negligible modification of in-stream and riparian habitats and biota. The best Natural rivers are in the Reference or unmodified condition.	Protected rivers; relatively untouched by humans; no effluent discharges or impoundments.
Good	Ecosystems essentially in good state; biodiversity largely intact.	Some human-related disturbance but mostly of low impact potential.
Fair	A few sensitive species may be lost; lower abundances of biological populations are likely to occur, or sometimes, higher abundances of tolerant or opportunistic species occur.	Multiple disturbances associated with need for socio-economic development, e.g. impoundment, habitat modification and water quality degradation.
Poor	Habitat diversity and availability have declined; mostly only tolerant species or water	Often characterised by high human densities or extensive resource exploitation. Management intervention is needed to improve

	<p>present; species present are often diseased; population dynamics have been disrupted (e.g. biota can no longer breed or alien species have invaded the ecosystem).</p>	<p>river health (e.g. to restore flow patterns, river habitats quality).</p>
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Source Palmer *et al* (2005: 162)

5.9 CHALLENGES FACING MUNICIPALITIES

According to Nealer (2009: 80), a lack of effective municipal planning (IDPs and budgets) which include aspects such as inter alia conducting municipal surveys and profiles of privately owned land and budgets in the restructuring, expansion and maintenance of local government infrastructure regarding basic services such as potable water and electricity supply, led to the current unmanageable status in most of the previously disadvantaged municipalities of the country; and _ the underlying causes of the ongoing failure of many municipalities to, for example, run a more preventive infrastructure maintenance programme and deliver a more reliable, effective, efficient and economical public service are due to inadequate budgets and skills (technical), inexperience in planning and implementing appropriate maintenance, and an absence of appropriate, credible and authoritative practice norms, standards and guidelines.

Van Rooyen and Naidoo (2008:744) submit that inadequate public awareness often results in either inadequate public pressure on officials and politicians or inadequate public support for initiatives to address environmental issues that often result in inaction and a disregard for environmental issues. One of the key characteristics of municipalities across the world is the fact that environmental management is not a priority when compared to issues such as e.g. housing, employment and crime. If elected politicians do not show commitment to EMS implementation, implementation staff will be unsupported and they will have neither the motivation nor access to the required resources they need to drive development and implementation of policies. The

EMS will then not be seen as a priority by council, top managers and other employees. The inevitable result will be inadequate resource allocations. There may be no wider acceptance of the EMS, often leaving a few officials and perhaps some consultants to drive unambiguous targets. Lack of political commitment is often the result of inadequate awareness or knowledge of environmental issues. Implementation of any EMS should, therefore, be accompanied by targeted and appropriate information campaigns in order to source and sustain political and senior administrative support for the project.

According to Odendaal (2003: 48), unregulated settlements frequently place a heavy burden on the availability of land and often destroys its intrinsic potential. Informal settlements are often developed on arable land. South Africa has only 10% of its area suitable for agriculture and any destruction thereof means a permanent loss of natural resources available for food production. Similarly, poorly regulated developments can destroy environmentally sensitive areas with negative results for the tourism and cultural industries.

- Solid waste generation, both municipal and industrial, is increasing and special attention by local government sphere is required to ensure that appropriate recycling and its reuse is ensured. Solid-waste landfill sites are recognised as a particular problem that requires special environmental legislation and practical guidelines to ensure effective the environmental management.
- Political office bearers and administrative officials lack experience and are often uncommitted to the positions that they are assigned to.
- Prevailing political ideologies and organisational cultures often protect vested interests and as a result personnel become disloyal and obstruct organisational, management and policy changes.
- Municipal structures, processes and technologies are sometimes outdated and these could have negative effects on sustainable development.

- Municipalities are often restricted in their endeavours to build capacity for sustainable development because of a serious lack of funding from own resources as well as from other spheres of government.
- The general conditions in the environment, e.g. regulatory practices, a centralized system and national political imperatives, could also have an impact on metropolitan municipalities and their contributions towards the development of sustainable communities.

5.10 CONCLUSION

Local government is an autonomous sphere of government, its powers are derived from the Constitution and are no longer delegated from the national or provincial government. The White paper is a policy framework that aims at guiding the municipality in fulfilling its developmental mandate. It provides for, inter alia, the co-operation with other spheres of government to realise the constitutional mandate of local government. Local government is the key site of service delivery and development and is central to the entire transformative project of the new South Africa. Local government should exercise its powers and perform its functions in a manner maximising their impact on social development and economic growth; aligning the roles of the members of the public and each sphere of government; and democratising development, meaning that each municipal community should be afforded the opportunity to be involved in development. The objectives of developmental local government could therefore only be achieved if environmental sustainability and sustainable community development are ensured simultaneously.

Developmental local government is an imperative of radical transformation of an apartheid local government afforded an exceptional opportunity to redefine the goals and operational procedures of local government in South Africa. The vantage point of the present model of developmental local government in South Africa is premised on the primacy of linkages between development, service delivery and local citizen participation. The IDP has a legal status and supersedes all other plans for local

development, and is meant to arrive at decisions on issues such as municipal budgets, land management, economic development and institutional transformation in a consultative, systematic and strategic manner. The Service Delivery Budget and Implementation Plan (SDBIP) seeks to ensure effective monitoring of the execution of the budget, the performance of senior management and the achievement of service delivery objectives set by Council

Both planners and environmental management specialists will need to become better attuned to the underlying philosophies, conceptual frameworks, guiding principles, methodological approaches and legislative requirements of the other profession. Incorporation of environmental management dimensions in the curricula of planners and including planning modules in environmental management courses would be an obvious starting point. In the next chapter a special focus will be on the evaluation of the District Municipalities in the Free State Province in the Free State in promoting environmental rights. This will also involve a comparative analysis of selected District Municipalities in Gauteng and Eastern Cape Provinces.