CHAPTER 2

POLICY-MAKING IN LOCAL GOVERNMENT

"We succeed more often in finding the right answers to the wrong problems; than finding the wrong answers to the right problems"

-Russell Ackoff (1974 : 43)

2.1   INTRODUCTION

As a result of increasing needs, desires and demands placed on contemporary South African local government, municipalities are expected to continuously render goods and services to communities within the constraints of limited public funds and scarce resources.   In terms of the <u>Municipal Structures Amendment Act</u>, 1999 (Act 58 of 1999) municipalities have developed unique structures and corresponding infrastructure to render functions and services to the communities in the first full democracy, many of which are facing the brink of bankruptcy. The national average payment level for services stood at 71% in March 2000. Municipalities were owed a total of R9.7 billion in outstanding payments (Business Day, 12 April 2000 : 3).

The administration of a municipality takes place in a political milieu and it is only after the legislator (council) has made a decision, that specific administrative action should take place.   According to Cloete (1996 : 12) at least six main groupings of interdependent, mutually exclusive administrative functions can be identified, **inter alia** policy-making, organising, financing, staffing, determining work procedures and controlling.   These enabling functions are prerequisites for goal achievement in any municipality.   In terms of section 152 of the <u>Constitution</u>

of the Republic of South Africa, 1996 (Act 108 of 1996) the primary responsibility of a local council is to formulate policy, to marshal the financial and human resources and to administer control over the administration of a municipality.

In the execution of a particular administrative function, elements of the other administrative functions will be encountered (Botes, 1997 : 306-307). For example, in order to regulate the personnel function a policy will have to be formulated for personnel matters such as selection, appointments, promotions, disciplining and retirement. In the same manner, organisational arrangements will have to be made in a municipality for personnel matters by providing for a personnel section with its own hierarchy of appointed personnel practitioners. (Cloete, 1994 : 43-44). The maintenance of the personnel function requires funds, therefore financial policies will have to be in place; procedures for the appointment, promotion and dismissal of personnel should be formulated; and control measures to monitor the performance of the personnel function should be put into operation (Anderson, 1979 : 213; Thornhill and Hanekom, 1995 : 20, 22).

This chapter deals with the very essence of policy-making in a municipality and its policy environment. It focuses on the role of stakeholders in the policy process and the forces that shape the various policies.

2.2   THE NATURE OF LOCAL POLICY

According to Dunn (1994 : 14) local policies are what municipalities actually do or don't do, which means that policies could either be concerned with change or with the preservation of the **status quo**. The Greater Johannesburg Southern Council for example, was put under pressure to put traffic calming measures on roads perceived to be dangerous. Irate residents from Elandspark, South Hill, Glenanda North, Kibler Park, Oakdane, Mulbarton and Soweto insisted that the Council erect speed humps on potential hazardous roads to curb road fatalities.

Residents have written to the Council and held demonstrations to register their grievances. Residents in Soweto dug trenches across some roads perceived as dangerous, because of the Council's reluctance to act (The Star, 19 April 1999 : 5). Depending on their resources available, a council could either decide to address the situation or accept the **status quo**.

Local policies seem to have no apparent beginning or end and are usually the result of consensus and compromise between contending groups such as a council, ratepayers associations, businessmen, unions and individuals. All local policies are future orientated, usually aimed at the promotion of the general welfare of the whole community, rather than a societal group, and take place within the framework of legally instituted local bodies such as council or departments of a municipality (Hanekom, 1987 : 8; Woll, 1974 : 132-133). Furthermore, local policies are not eternal truths, but rather hypotheses subject to alteration and to devising better policies until these in turn are proved unsatisfactory. For example, some Johannesburg residents, dissatisfied with the noise caused by taxis hooting to attract commuters, petitioned the Highlands North Council to stop the noise pollution. Residents living along Louis Botha Avenue in Orange Grove and Highlands North felt that their constitutional rights to a peaceful existence were violated and property rights along the route dropped resulting in the Council losing out on increased rates. The Council implemented a system of colour-coded cards. Commuters would purchase a pack of colour-coded cards for R30 and would simply flash the card bearing the colour of the route on which they wished to be transported (Minutes of Greater Johannesburg Metropolitan Council, 5/1999 : 12; The Star, 17 May 1999 : 12). In this case the Council came up with an innovative idea to address the community's complaints and to eliminate unnecessary stops by taxis, confusing hand signals by commuters and hooting.

The nature of local policies can therefore be related to the opinions of individuals or groups in a local community. The local community will regard local policies as

either adequate or inadequate (Botes, 1997 : 308-309). It can be argued that some people will regard a council's attempts to attract new business ventures into the local community as adequate; whilst the unemployed would regard a council's attempts as inadequate.

The output of the local political process culminates in by-laws, which is nothing but a written public statement of policy by a council pertaining to a particular local matter, indicating the course of action that is desired or preferred. The desired course of action, or policy, serves as an input to the comprehensive local administrative process, which translates it into action programmes (Lineberry, 1977 : 167). Hanekom (1996 : 1) states the "...*although the administrative functions are regarded as being equal in all respects, it is obvious that policy-making, because of the policy input derived from the political process, can be regarded as the first among a group of equals and is indeed the enabling function, because it provides a framework and is an instrument for action*".

The political process transforms the values, needs, desires and demands of the local community into policy decisions (Anderson, 1979 : 215). For example, a petition to the Alberton Town Council by residents of the Rus-Ten-Vrede old age home to reduce the noise pollution in Meyer street, caused by speeding motorists, led a decision by the Council to reduce the speed limit in Meyer street and the construction of speed-bumps in the street. The Council's decision resulted in the implementation thereof by the engineering and traffic departments (Minutes of Alberton Town Council, 3/2000 : 3).

The needs, desires and demands of the local community are constantly changing; and it is a council's responsibility to reflect those changes in its decision-making. Rapid social change, political developments, economic stagnation and an increase in the needs, desires and demands of the local community require sound and dynamic local policies in order to ensure political, economic and social stability and development (Botes, 1997 : 309-310; De

Villiers, 1981 : 78-80).   It can be argued that a council should not adopt an attitude of muddling through. Local policies made on a crisis-to-crisis basis will not suffice in meeting the challenges of democratic South Africa. The changing needs, desires and demands of local communities in South Africa - i.e. a need for economic growth by attracting businesses into the jurisdiction of a municipality in order to stimulate job creation; a desire for the expansion of local services such as the provisioning of water and electrification; and a demand for the upgrading of existing infra-structure in housing, education and health - requires rational and effective policy-making by council (Brynard, 1995 : 7-9).   It can be concluded that a council's decisions will reflect changes in the local policy environment.

When a council has decided on a specific policy it implies that a council has clarity on its intended action, which in turn means that information on the resources it intends to employ and the effects of the intended actions, are available. This implies that local policies are about the intentions of a council towards the community; the direction in which a council wants to steer the community and about the utilisation of local resources. From this it can be deduced that local policy is two-dimensional, i.e. it has a **political** and an **administrative** dimension. The political dimension refers to the extent to which a council is involved in deciding on the activities and resources necessary to attain local objectives. The administrative dimension refers to actions taken by executive local departments to realise the goals envisaged by council within the ambits of a council's decision and the resources allocated (Hanekom, 1996 : 22-23; Woll, 1974 : 136-137; Dunn, 1994 : 351).   It can be concluded that policy-making is an inherent part of a councillor's task and should therefore be included in any training programme for councillors.

2.3   CHARACTERISTICS OF LOCAL POLICY

According to Botes (1997 : 309) local policies have distinctive characteristics

which distinguishes it from administrative decisions, **inter alia** authoritative, enforceable, flexible and adaptable, feasible, clear and public. A council, as the decision-maker in a municipality, should have an understanding of the characteristics of local policies in order to effectively formulate them.

2.3.1 Authoritative

Local policy is determined by a local council, or a representative such as a head of department (Hanekom, 1996 : 51). According to Botes (1997 : 309) "*...speculations and opinions are not regarded as being policies, which means that a policy must be defined explicitly and all interested parties must be informed in writing*". In the case of the Braamfontein Hawkers' Front (BHF) this did not happen. More than 200 members of the BHF took part in a public demonstration on 17 September 1999 before handing over two memoranda outlining their objection against being removed from trading sites in the city centre. Their complaint stipulated that they were unhappy that the Council made a decision without consulting the BHF. The BHF felt that they had a constitutional right to be economically active and that the Council was responsible for the high unemployment rate and poverty in the city (The Star, 18 September 1999 : 5). It can be concluded that although a decision made by council is authoritative, it needs to ensure that its decision is perceived as legitimate and should therefore consult all relevant stakeholders affected by a decision.

2.3.2 Enforceable

A by-law or a policy declaration as contained in a circular letter, departmental directive, official mandate or official letter should be regarded as being enforceable (Hilsman, 1971 : 127). More than 100 shopowners in central Krugersdorp, for example, objected to the Council's decision to turn one of the town's main streets into a pedestrian precinct. Of the 119 shopkeepers in the

central area, 107 were dissatisfied with the closure of the road because it affected the shopping habits of residents. Their letter of objection was rejected by the Council (Minutes of Krugersdorp Town Council Meeting, 9/1998 : 7-8; The Star, 12 October 1998 : 2). In another example, the Emfuleni Local Council passed a by-law prohibiting the selling of goods by residents from their private residences. The Council made the decision after they received a number of complaints from legitimate small businesses that these practices were negatively affecting them. Residents running shops from home felt that they had the right to be economically active and that they would defy the Council's resolution (Minutes of Emfuleni Local Council Meeting, 3/1999 : 12; Vaalweekblad, 23 April 1999 : 8). It can be argued that a council's decision will not always be favourably accepted by all segments of their community. However, if a council deems a decision to be in the interest of the community, it would enforce the decision.

2.3.3 Flexible and adaptable

The goals a council pursues should be regarded as firm, while policy on the other hand allows for changing circumstances. According to Botes (1997 : 309) the "...*rigid and inexorable implementation of an unsuitable or obsolete policy is worse than applying no policy at all.*" For example, disgruntled factory owners in the industrial area of Marlboro, Sandton, who rented their premises out to residential tenants lashed out at the remaining owners and Greater Eastern Johannesburg's Eastern Council for trying to stop them. About 59 of the factories in Marlboro were used as residential units. The South African National Civics Organisation (SANCO) collected the rent and managed the buildings for the owners. It was estimated that the owners receive about R400 000 a month from rentals. SANCO acted as a facilitator between tenants and owners to ensure buildings were being kept clean and that services were paid for. The remaining businesses were dissatisfied and blamed the Council for failing to prevent their illegal use. Buildings were being vandalised and stripped on a daily basis. The Council conceded that these buildings were not demarcated for

residential purposes, but removing tenants would only result in squatters occupying buildings, causing the area to deteriorate further.   The Council decided that in the context of a housing shortage in the Marlboro area, it would allow these factories to be used for residential purposes. (Minutes of Sandton Town Council Meeting, 4/1999 : 4-6; The Star, 19 April 1999 : 5). It can be argued that it is necessary for a council to be flexible in its decision-making and to allow for changing circumstances – with the provision that it is in the interest of the community.

2.3.4 Feasible

A local council should ensure the feasibility of policies before it is approved. In this regard a council should take the realities of the environment into consideration when policy is formulated (Carson, 1982 : 42). The Greater Johannesburg Eastern Council, for example, determined that the 750 flats it owned in Alexandra were no longer feasible, and decided to sell it. The four blocks of flats, which housed more than 4000 people, were maintained through the use of public funds. Rent boycotts and many problems associated with the taking of transfer of ownership by people who purchased the flats, resulted in only an 8% payment level. This left the Council with an annual deficit of about R1.2 million. Although the Council received negative reaction from the community, it justified its decision in terms of the feasibility of maintaining the flats (Minutes of Greater Johannesburg Eastern Council Meeting, 5/1999 : 17-18; The Star, 5 July 1999 : 7).

It could be argued that one of the primary reasons for the current financial crisis municipalities are experiencing, is the non-payment for municipal services. The accounting systems of at least 10 municipalities in Gauteng were in such a shambles that the provincial auditor-general, Ratha Nayager, was not able to express an audit opinion. This was due to uncertainties arising from unverified records, deficient accounting systems, incomplete records, lack of supporting

vouchers and the failure to submit financial statements (Gauteng Provincial Auditor-General, 1999 : Interview; The Star, 24 March 1999 : 2). The ability of the municipalities of Boksburg, Greater Johannesburg, Greater Nigel, Krugersdorp, Pretoria City Council, Vereniging, Midrand, Northern Pretoria, Randfontein and Western Vaal to function as public-service institutions is attributable mainly to intergovernmental grants, bank overdrafts, utilisation of investments and assistance from financial institutions (Gauteng Provincial Auditor-General, 1999 : Interview). It can be argued that councils are required to make use of alternative measures to generate the required revenue due to non-payment of services.

2.3.5 Clearly formulated

In order for policies to be correctly interpreted it is important that circulars and policy directives are semantically and syntactically properly set out (Hanekom, 1996 : 52). Councillors should be equipped with the necessary skills to enable them, with the assistance of municipal officials in supervisory positions, to formulate policies clearly.

2.3.6 Public

It is expected of the local community to adhere to policy as adopted by a council, which makes it necessary for the implications of policy decisions to be publicised as widely and clearly as possible (Botes, 1997 : 313). In order to make the public aware of a three year project, called Egoli 2002, to specifically regenerate the inner city through service delivery (roads, water, sanitation, traffic lights) and, by law enforcement (street trading, building control, environmental health) the Greater Johannesburg Metropolitan Council (GJMC) embarked on an intensive awareness programme which included press releases, television adverts, newspaper editorials, brochures and community meetings over a period of four months. (Spokesman for the Democratic Party, 1999 : Interview; Greater Johannesburg Metropolitan Council Minutes, 2/1999 : 9-10). It can be concluded that councils

can utilise a number of different news media to make the community aware of their plans of action. From this it can be deduced that local policy has a number of distinctive characteristics, and that council's policy should reflect these characteristics.

2.4   MANIFESTATIONS OF LOCAL POLICY

Local policy manifests itself in a number of different ways, **inter alia**, policy as a demand, policy as a decision, policy as a statement, policy as a process, policy as an output, policy as an outcome and policy as a programme (Wissink, 1990 : 1-5; Dror, 1984 : 196-202; Dye, 1987 : 1-3; Hogwood and Gunn, 1984 : 14-24; Fox and Meyer, 1995 : 32-33; Ismail **et al.**, 1997 : 149-150).

2.4.1 Policy demands

According to Anderson (1979 : 14-15) policy demands are appeals made upon a council by role-players in the local policy environment to take action regarding a perceived need or problem. These demands could be made by any of a number of different role-players and the type of need or problem could take various forms (Wissink, 1990 : 2). For example, a demand from the ratepayers association in Brakpan for improvements to be made to the Municipality's dilapidated town-hall (Beeld, 12 January 2000 : 4); or a demand from the Lethabile school in Attridgeville to close down a street for traffic at particular times of the day to ensure the safety of the children (The Citizen, 4 April 2000 : 7); or a demand from the South African Municipal Workers' Union (SAMWU) in Sandton for a salary increase (The Star, 17 April 2000 : 2). In another example, the increase in crimes such as rape, car-hijacking, murder, burglary and child abuse led to 200 residents in Etwatwa, Benoni to march on the local police station and hand over an assortment of dangerous weapons, including pistols and revolvers from alleged criminals. In a memorandum, handed over to the police by councillor Simon Sintu, the marchers demanded that the police work with the community;

no person be allowed to discharge a firearm in public; no firecrackers be allowed; shebeen-owners operate only until 21h00; and residents stop buying stolen goods from criminals (Councillor for the Benoni Town Council, 1999 : Interview; Sowetan, 19 October 1999 : 3).

It can be argued that such demands require councils to deliberate and decide on some course of action.   Councillors should be made aware of the different sources of policy demands and how to effectively deal with them.

2.4.2 Policy decisions

Policy decisions are regarded as the interpretation of policies by municipal officials in order to give meaning and content to local policies (Dunn, 1994 : 135-136; Dror, 1986 : 23-26). For example, after the Marlboro Local Council decided to allocate more land for parks and recreation purposes, it became the responsibility of town planning officials to give content to the policy by deciding how much land was available for the development of a park, which area would be designated for the development of a new park; and what recreational attractions would be placed in the park (Marlboro Local Council Minutes, 7/1999 : 3). It is therefore the responsibility of the officials to provide the answers to the **who**, **what**, **when**, **where**, and **how** questions. It can be concluded that a council should ensure that the intent of the legislature is reflected in the implementation of its policies by municipal officials.

2.4.3 Policy statements

According to Anderson (1979 : 245) policy statements are formal expressions of local policies. A local council will make its policies formally known through the minutes of council meetings, public speeches, media statements or through the release of policy documents.   The Akasia-Soshanguve Town Council, for example, released a media statement announcing the Council's decision to

embark on a campaign to combat juvenile delinquency in its area of jurisdiction (Minutes of Akasia-Soshanguve Town Council Meeting, 3/1999 : 8; Pretoria News, 16 September 1999 : 4).

2.4.4 Policy as an output

According to Fox and Meyer (1995 : 34-35) policy output refers to things that a council does as opposed to what it says it is going to do. Unemployed Soshanguve residents, for example, dumped garbage outside the premises of the Council in an effort to get the Council to respond to their pleas for jobs. The residents claimed that the Council promised to create 3000 new jobs for the unemployed in 1998/99 by attracting new business ventures into its area of jurisdiction, but only managed to create approximately 430 new jobs (The Star, 14 November 1999 : 1-2). The Council therefore delivered 14% of their stated objective. The Council was however, sympathetic to the cause of the unemployed residents, but responded that there was a structured process for job applications and that residents could not just demand jobs (Director of Municipal Services for the Pretoria Metropolitan Council, 1999 : Interview). It can be argued that unfulfilled promises lead to a dissatisfied community which in turn could work against councillors in municipal elections.

2.4.5 Policy as an outcome

According to Ismail **et al.**, (1997 : 149) policy outcomes refer to the implications of a policy on a community. The outcome of the policy may have either positive or negative implications for society – or a combination of positive and negative implications. For example, the Delmas Town Council's decision to grant a business license to an entrepreneur to open a brothel was in line with a council's attempts to attract business into its area of jurisdiction (positive), but the decision was regarded as immoral by segments of its inhabitants (negative) (Minutes of Delmas Town Council Meeting, 7/1998 : 3). The Council decided that the

positive implications outweighed the negative implications and granted the business license. It can be concluded that the outcome of a policy can have both a positive and negative impact on the community.

2.4.6 Policy as a programme

In the final analysis, policies result in programmes and projects. In a sense, the services that a municipality provides to its communities, are delivered in a programmatic manner (Wissink, 1990 : 3). Thus the services and activities of municipalities are provided through programmes and projects (Hanekom, 1996 : 53). According to Ismail **et al.**, (1997 : 150) these programmes "…are *sometimes seen as the policy of a council*." Thus it could be argued that a policy of council is implemented through a programme or programmes. The Greater Johannesburg's Eastern Council, for example, approved a project for a new refuse removal system in Alexandra at a budget of R5.4 million in terms of their environmental policy, in an attempt to clean up the area plagued by overcrowding. The Council determined that the new waste management system was necessary to upgrade civic pride and public morale to maintain environmental sensitivity and integrity and empower the community.

From this it can be deduced that policy manifests itself in a number of different ways and it is required of councillors to be able to identify these manifestations.

2.5   POLICY-MAKING LEVELS

According to Ismail **et al.**, (1997 : 157-159) and Dunn (1994 : 143), the policy-making process is a complex process, with no apparent beginning or end. For the purpose of analysis the policy-making process can be divided into a number of policy levels, **inter alia**: major, secondary, functional and minor policy levels.

93

2.5.1 Major policy level

A council comprises a number of councillors who normally represent the interests of a particular political party. On this level a council, or one of its committees, considers all policy recommendations for amendment, approval or reflection (Aaker, 1990 : 12-14). It includes by-laws, regulations, approving the budget, matters of organisation design or redesign, or any other matter that is of significance to the effective and efficient functioning of a municipality (Botes, 1997 : 311-312). The fact that councillors often belong to particular political parties normally results in the debate taking place along political lines. For example, the decision of the Cape Town Municipality to support the Olympic 2004 Bid was taken at the major policy level and it determined the framework for the officials of that particular municipality (Ismail **et al.**, 1997 : 213).

According to Botes (1997 : 311) political idealism of a council should be transformed into workable realities, and it is the responsibility of the departments in a municipality to implement policy programmes. A council will specify fixed policy principles, for example, its intention to be a catalyst in economic growth and job creation, but it will be the responsibility of the senior officials in a municipality to devise an innovative plan to attract trade and industry into its jurisdiction (Bayat and Meyer, 1994 : 12; Spanier, 1978 : 45-46) In this regard the Mdutjana council, for example, identified economic growth and job creation as a major policy issue and has in this regard succeeded in attracting private concerns, such as Sun International, into its area of jurisdiction by lowering land prices on demarcated business sites (Personnel Officer for Mdutjana Local Council, 1998 : Interview).

2.5.2 Secondary policy level

On the administrative level, the chief executive officer (CEO) (to be renamed the municipal manager after the December 2000 elections) acts as an adviser to a

council. The CEO is the accounting officer, and held responsible for the overall performance of a municipality (Ismail **et al**., 1997 : 158; Bekker, 1985 : 32-34). At this level the policies of a council are translated into practical programmes and projects.   The CEO will therefore be responsible for amongst other, setting programme priorities, defining target groups and beneficiaries (Botes, 1997 : 225, 235-236).   For example, Ketso Gordhan, City Manager for the Greater Johannesburg Metropolitan Council, informed the Council on 28 June 1999 that the lack of a comprehensive economic and social data base in the Johannesburg metropolitan area was the main constraint in identifying growth and job-creation policies. The Council in turn requested the World Bank to carry out an economic survey that would inform the Council about the nature of economic activity in the Johannesburg area.   The data-base would assist the Council to determine intervention plans for local economic development. The survey was conducted in collaboration with the South African Chamber of Commerce and the National Business Initiative among 500 large businesses, 900 small, medium and macro enterprises, and 2000 households in townships and the inner city. The results of this economic survey formed the foundation for the Council's Egoli 2002 plan. (Minutes of Greater Johannesburg Metropolitan Council, 6/1999 : 8-9; Business Day, 29 June 1999 : 2). It can be argued that a council is reliant on the CEO to ensure the overall performance of a municipality and provide a council of advice where necessary.

2.5.3 Functional policy level

The functional policy level is represented by the different heads of departments, **inter alia**: Health, Housing, Corporate Services, Community Services, Financial, Engineering and; the Planning and Environmental Services Departments. At this level officials are responsible for the formulation of departmental or functional policies with specific emphasis on matters such as budgeting, finance and procurement (Ismail **et al**., 1997 : 158; Caldwell and Gyles, 1966 : 45-46). For example, in accordance with a Tembisa Town Council's decision the head of the

Department of Engineering and other chief officials were given the delegated responsibility to formulate a plan to provide electricity to rural communities that was capable of execution, both functionally and administratively (Minutes of Tembisa Town Council Meeting, 4/1998 : 5).   In another example, 50 of Johannesburg's fleet of 98 fire engines had awaited repairs due to financial constraints. Thus, equipment and engines were shared and continuously rotated around the city. On this basis, a number of fire engines could be deployed from different areas in the city at any time to handle a major crisis in a particular area (Disaster Management Executive Officer for the Greater Johannesburg Metropolitan Council, 1999 : Interview; Business Day, 18 March 1999 : 7). It can be argued that a council is dependent on different heads of department to ensure effective and efficient service delivery to the community.

2.5.4 Minor policy level

According to Ismail **et al.**, (1997 : 154-155) this level is represented by all supervisors and operational personnel members in a municipality.   These officials deal directly with the community and with the physical implementation of projects. At this level various policy instruments are used, **inter alia**: operational policies, job descriptions, procedure manuals, rules and regulations.

2.6   POLICY-MAKERS IN A MUNICIPALITY

According to Ismail **et al.**, (1997 : 159-161) and Botes (1997 : 310) a number of different policy-makers can be identified, **inter alia**: a council, officials, residents and interest groups.   In terms of section 160 (8) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) it can be argued that a council should consult with all the relevant policy-makers in the process of formulating policy. This will not only render comprehensive policy-relevant information, but will probably ensure the legitimacy of a council's decisions.

96

2.6.1 A council

In terms of section 152 of the <u>Constitution of the Republic of South Africa</u>, 1996 (Act 108 of 1996) local councils have to provide democratic and accountable government to local communities. It includes a responsibility to provide municipal services in a sustainable manner and to promote social and economic development. Apart from this, councils have to promote a safe and healthy environment and encourage the involvement of the community in local matters.

According to Ismail **et al.**, (1997 : 159) councils should deliberate policy recommendations, adopt new policies and oversee the implementation thereof. It can be argued that councillors should have the ability to formulate by-laws and effectively negotiate and deliberate at council meetings. An individual councillor has no policy-making powers, but a council can delegate specific policy matters to an individual councillor (Craythorne, 1997 : 189). The full council will, however, need to ratify the policy decision. In terms of section 160(2) of the <u>Constitution of the Republic of South Africa</u>, 1996 (Act 108 of 1996) specific functions may not be delegated by a council, **inter alia** the passing of by-laws; approval of budgets; the imposition of rates and other taxes, levies and duties; and the raising of loans. Thus, a council is required to make decisions on the basis of the inputs of all parties and interests groups concerned; and comprehend their delegated powers as well as those aspects that can not be delegated.

According to Rossouw (1999 : 26-27) policy recommendations are deliberated at monthly council meetings. For this purpose councillors should prepare themselves thoroughly in order to make constructive policy inputs. All policy recommendations should be thoroughly debated before voting takes place (Carson, 1982 : 67-68). It can be argued that councillors should be well equipped to be able to bring their points of view across at council meetings. It implies an understanding of meeting procedures and an ability to negotiate and

possibly resolve conflict. In this regard 62% of the 387 councillors that returned completed questionnaires (Annexure 1), listed lengthy, and unstructured meetings as the single most cumbersome aspect of their responsibilities. This was attributed mainly to the inability of councillors to express themselves effectively and the inability of the chairperson to conduct the meeting in an orderly fashion.

The result of the local political process is local policy, and it is therefore inseparable from politics and more specifically the political ideology of the majority party in council. Hanekom (1987 : 69) aptly states that an analysis of policy should not only take into account the costs and benefits of existing policies or of alternative courses of action, but the official should bear in mind what the policy-maker envisaged when the request for policy inputs was originally made and the party-political implications of a particular policy. It could be argued that an official ignoring this will in all probability come up with information that is not useful to a council.

2.6.2 Officials as policymakers

In terms of section 160 (1) (d) of the <u>Constitution of the Republic of South Africa</u>, 1996 (Act 108 of 1996) councils can employ personnel to ensure the effective performance of a municipality. These officials should be appointed on the basis of their technical, functional or administrative expertise. In their daily interaction with the community, officials regularly receive requests and complaints that they have to deal with. In this regard officials fulfil a number of policy roles, **inter alia**: advisory, initiating, formulating, innovating, implementing and monitoring (Anderson, 1979 : 256). For example, the Delmas Town Council took the final decision regarding the provision of a storm-water drainage system, which was based on probably 90% of the advice of the technical report from the civil engineer (Minutes of Delmas Town Council Meeting, 9/1999 : 5).

2.6.3 Citizens

Citizens, especially those within a particular municipality, are directly affected by policy outputs of that municipality, which require them to play a pivotal role in the policy-making process. In terms of section 152 (1)(e) of the <u>Constitution of the Republic of South Africa</u>, 1996 (Act 108 of 1996) councils should encourage the involvement of communities within the municipal area in local matters. Due to their personal involvement in municipal activities, citizens would be in a better position to identify policy weaknesses (Starling, 1979 : 91-93). It could be argued that the involvement of citizens in the policy process should be encouraged because it would increase the responsiveness of local councils, and it improves the quality of policy decisions.

Citizen participation in the policy-making process include the writing of letters to a municipality, or a councillor, or the editor of a local newspaper, attending council meetings, taking part in protest meetings, phoning officials with a request or complaint, visiting a municipality's offices, voting in the local elections and joining voters' or civic organisations (Ismail **et al**., 1997 : 160-161). For example, about 500 Attridgeville residents marched on the local town offices on 17 March 1999 to protest against electricity and water cuts. Amongst their grievances were requests for the scrapping of all municipal service accounts that were in arrears; an investigation into the administration of the city treasurer's department; installation of prepaid meter boxes in extension 7 informal settlement; an immediate end to electricity and water cuts; and a meeting of the Council and Attridgeville-Saulsville Concerned Residents' Association (Minutes of Attridgeville Town Council Meeting, 5/1999 : 7; Sowetan, 18 March 1999 : 5). If a council does not promote citizen participation, an understanding of the needs, desires and demands of the community are sacrificed and this could lead to opposition to decisions of a council, protests and even civil disobedience. In this regard Johannesburg's Southern Metropolitan Council declared that the Council was aware that they were not getting 100% value from their personnel,

99

because the Council regularly received complaints from the public that personnel were loitering and not doing their work. As a result of a meeting between the Council and ASCORA a task team had been set up, consisting of councillors, municipal officials, ASCORA-members and community leaders, to investigate ASCORA's grievances and to report back to the Council regarding their findings (Councillor for the Johannesburg Southern Metropolitan Council, 1999 : Interview; Saturday Star, 27 March 1999 :8).

In one case the Greater Johannesburg's Northern Council was accused of deliberately ignoring residents by applying for exemption from the requirements of the Environment Conservation Act, 1989 (Act 73 of 1989) and the National Environmental Management Act, 1998 (Act 107 of 1998) for a piece of land in Zandspruit without informing them. The Council had purchased a piece of land near the Zandspruit informal settlement area to accommodate homeless people. The Council was in negotiations with residents living north of Witkoppen Road and an advisory panel between residents and the Council had been set up, when a notice appeared in the local newspapers asking for exemption from the Act. The residents' negative reaction can be understood because council was acting contrary to agreements of full public participation. They felt that the issue had to be resolved by the advisory panel before any action could be taken by the Council. In this regard the Council withdrew its application for exemption from the Act and continued negotiating with the advisory panel (The Star, 25 January 1999 : 6).

2.6.4 Interest groups

According to Dror (1968 : 25-27) interest groups are informal, voluntary organisations that are formed in order to promote the common interest of its members. In their meetings with officials or councillors pressure groups normally rely on tactics of persuasion to present their case. Interest groups have the capacity to generate strong community support to pressure a local council into some kind of action (Caiden, 1971 : 56-58). The promotion of policy issues in this

manner assists a council not in just determining the local policy agenda, but it is helpful in the prioritisation of policy issues (Spanier, 1978 : 48).

Supporters of the Daveyton Peace Civic Organisation (DPCO) stopped buying goods in shops in the Greater Benoni area in November 1998 to protest against the Council's methods of ensuring payment for municipal services. The DPCO's demands included the return of belongings removed from people's homes, the scrapping of the system of attaching property, and an immediate halt to electricity and water cuts in the area. The Council's reaction was that they would take legal action against people or attach possessions only in extreme cases. The Council complied with their promise and only acted against people who had not made arrangements to pay outstanding debt (The Star, 10 November 1998 : 2).

It can be deduced that a council is not the only party involved in formulating policy. It can be argued that a council should consult with all the relevant policy-makers in the process of formulating policy. This will not only render comprehensive policy-relevant information, but will probably ensure the legitimacy of a council's decisions

2.7   THE POLICY PROCESS

Botes (1997 : 311) argues that policy is a "...*product of a primary process in setting any kind of government action in motion*". It may be regarded as the interpretation of councillors of what values the local community considers to be good and desirable; and ultimately introduced by the officials in terms of effective and efficient service-rendering. Local policies can never be static, and have to be continuously reviewed, reformulated or replaced to adapt to changing local circumstances.   Policy-making is a dynamic process involving various participants and implying continuous interaction between a council, officials, citizens and interest groups. For example, more than 500 000 people live in Alexandra, but only 13% of them pay their service bills. Most of the roads are not tarred with little or no street markings or traffic signs. Toilets, which cater for

up to 20 people each, are cleaned only twice a week. Rubbish spills out of massive dumpsters left unattended on street corners for months. Even the Jukskei river bordering the township, is polluted; and when the river floods, settlements on its banks are washed away. The graveyard is unkempt – the grass only gets cut three times a year (Sunday World, 14 March 1999 : 3). The Council's response was that the problem of overcrowding resulted in twice the number of families for which services in the area were designed for, people occupy and build on council land illegally, and then draw on services such as electricity for which they do not pay for (Minutes of Alexandra Town Council Meeting, 2/1999 : 5). It can be argued that it is difficult for councils to provide sufficient services if they lack revenue and people settle at such a rate. It would imply an ability to act against illegal occupants and to prioritise service rendering. Thus councils should continuously adapt local policy to reflect changing circumstances and review their financial status in providing effective service-delivery to their community.

No single universally accepted perspective or model of the policy-making process exists. Although situations or values do not determine the policy-making process, they still influence the eventual choices made. A local council should in deliberating and formulating policy endeavour to strike a balance between what is demanded and what is feasible. In this regard the political, economic, social and technological factors should be considered individually or jointly to determine their impact on policy choices (Hanekom, 1987 : 14-15; Carson, 1982 : 67-68; Thornhill and Hanekom, 1995 : 56-57). For example, on 5 October 1998 about 5000 members of the South African Municipal Workers' Union marched to the Pretoria Metropolitan Council to protest against the privatisation of municipal services. The union stated in their petition that privatisation would lead to job losses and poor working conditions. The Council responded that more than 150 municipalities had already privatised services such as refuse removal and meter reading; and that it was necessary to counter government budget cuts (Business Day, 16 October

1998 : 2). It can be concluded that councils have to take environmental factors into consideration when deliberating and formulating policy.

2.8   PHASES IN THE LOCAL POLICY-MAKING PROCESS

Dunn (1994 : 138) argues that the policy process, as illustrated in diagram 2.1, has no apparent beginning or end, and should be viewed from a phased approach.

<u>Diagram 2.1 : The local policy-making process</u>
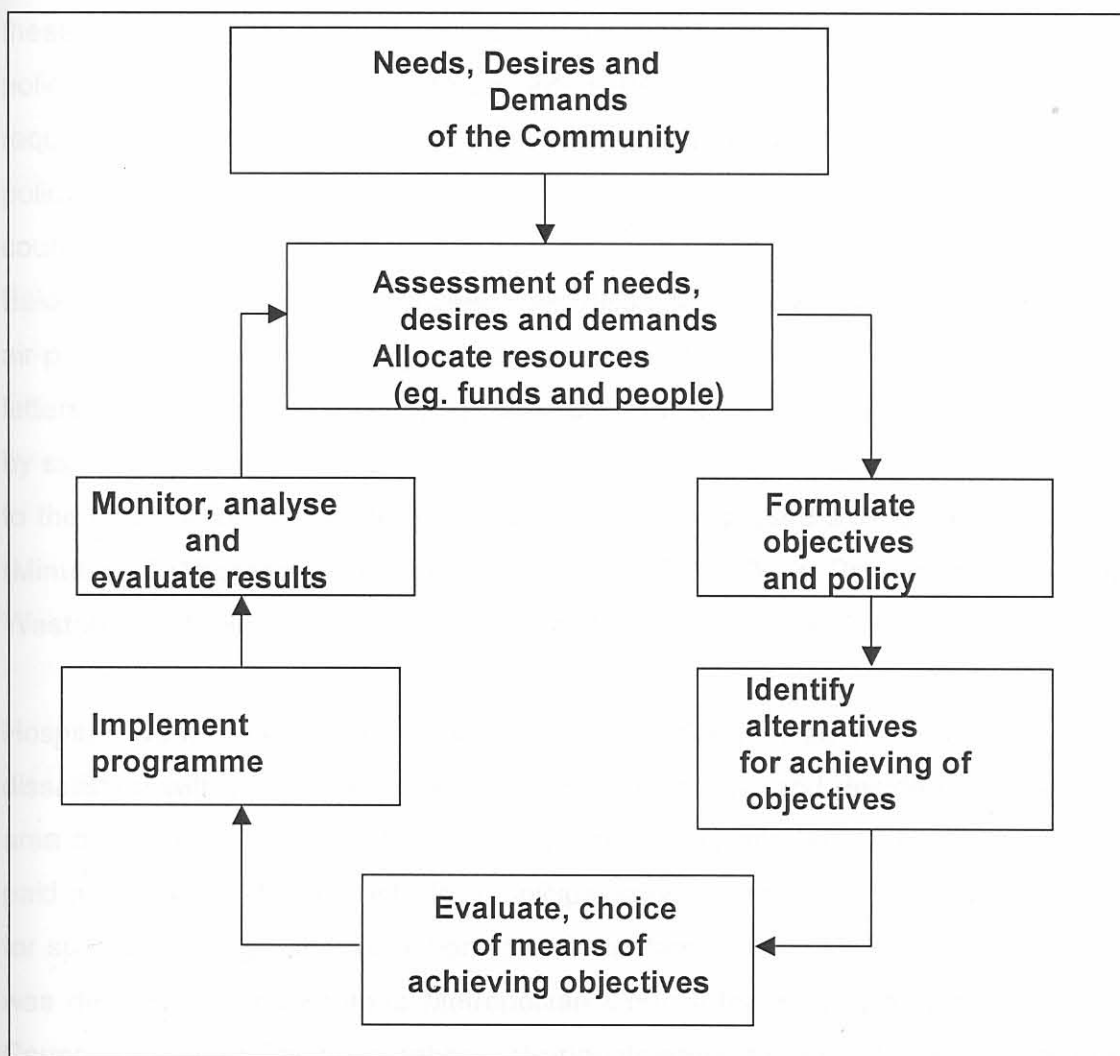
Source : Ismail, 1996 : 87

103

The local policy process can be viewed as consisting of a number of phases, **inter alia** agenda setting, policy formulation, policy adoption, policy implementation and policy evaluation (Ismail **et al.**, 1997 : 151).

2.8.1   Agenda-setting

Agenda-setting is regarded as the first phase in the local policy process and deals with the process of identifying policy problems which require the attention of a council. It is a process wherein the members of a local community identify their needs, desires and demands; and wherein a local council decides to place these issues on the agenda for council deliberation. The setting of the local policy agenda allows a council to become sensitised to some of the critical policy requirements that affect their local community. In the agenda-setting phase the policy problems are defined in very broad terms with no real indication of how a council is going to address it. For example, a number of residents from Bekkersdal in Westonaria indicated their dissatisfaction with the increase in the air-pollution caused by newly established steel factories in the area by writing letters to the local newspaper, by complaining to their political representative or by signing a petition. In this regard councillor Sipho Ngobeni submitted a motion to the Council to investigate the levels of pollution caused by the steel factories (Minutes of Westonaria Town Council Meeting 5/1999 : 3; Personnel Officer for Westonaria Municipality, 1999 : Interview; The Star, 6 June 1999 : 7).

Hospital workers and their unions of the Pretoria Academic Hospital were dissatisfied with the dirt at the entrance to the hospital and decided to clean the area themselves and have been doing so since 1 November 1999. The hospital paid about R400 000 a month for municipal services and an additional R190 000 for special drainage and sanitation to curb contamination. After a signed petition was delivered to the Pretoria Metropolitan Council the issue was placed on the Council's agenda for deliberation (Superintendent for the Pretoria Academic Hospital, 1999 : Interview; Pretoria News, 2 November 1999 : 4). In can be

concluded that councillors should be in constant interaction with the community in order to timeously identify the needs, desires and demands of the community and place them on a council's agenda for deliberation

2.8.2   Policy formulation

It is a council's responsibility to formulate an appropriate response to the identified needs, desires and demands of its local community. In order to do this, a council tasks officials of a municipality to investigate the identified complaints and problems. This is normally done to determine if the complaint or problem is not in fact a private problem between two or more members or businesses in the local community. If it has been identified as a public problem, the heads of departments and officials are tasked to formulate policy recommendations to a council (Ismail **et al.**, 1997 : 151).

Several businesses at Brookes Hill Pavilion in Sandton, for example, have strongly objected to the introduction of paid parking and launched a petition which was signed by more than a 1000 people. The Broll Property Group, the managing agent, was of the opinion that the paid parking system would control the flow of traffic and drastically reduce accidents as well as put a stop to numerous vandalism incidents involving cars. The owners of Tapas Al Sol, Indigo and Wimpy felt that it would affect their businesses negatively. The businesses forwarded the petition to the Municipality, which in turn stated that it was a matter of private concern and not in the general interest of the community (Partner in the Broll Property Group, 1999 : Interview).

2.8.3   Policy adoption

Policy recommendations are normally drafted by officials of a municipality and then referred to a council for deliberation, approval and adoption. It is important to note that officials only make policy recommendations, but it remains the

responsibility of a council to approve or reject a particular policy recommendation. In deliberating recommendations a council will consider the political, financial, organisational, human, technical, legal and operational implications of the different alternatives. If a council is not satisfied with the implications of the recommendations, the matter could be referred back to the officials for further investigation. For example, the traffic department in Westonaria recommended that Newcombe road (a single lane road) be converted into a double lane road to alleviate traffic congestion. The Council, due to budget constraints and the high cost of road construction, decided to refer the matter back to the traffic department for further investigation (Minutes of Westonaria Town Council, 2/2000 : 9). In this case the Council did not adopt any decision. In another example, to overcome budget constraints the Greater Johannesburg Metropolitan Council financed infrastructural development with money raised from disposing of assets such as the Metropolitan Bus Company, the Johannesburg Zoo and the fresh produce market. The money raised from the sale of these assets, which were running at a loss to the Council, enabled the Council to finance its infrastructural development which would otherwise not have been possible (Chairman of Executive Committee for the Greater Johannesburg Metropolitan Council, 1999 : Interview; The Star, 28 June 1999 : 3). In this case the Council took an innovative decision in the light of its weakening financial situation.

2.8.4   Policy implementation

After a council has accepted a particular recommendation, the policy has to be translated into action. A council as legislator should never get involved in the physical execution of local policies, it is the responsibility of the officials to implement the policies. A council will however, request periodical feedback as to monitor the implementation of its decision. For example, after the Westonaria Town Council accepted a second recommendation from the traffic department that Newcombe road - due to traffic congestion - be changed into a one-way

street, it became the responsibility of the engineering and traffic department to physically implement the decision (Minutes of Westonaria Town Council, 3/2000 : 4).

2.8.5 Policy evaluation

The policy-making process does not come to an end after the actual implementation of a council's decision. After physical implementation, it is important for a council to evaluate the efficiency and effectiveness of a policy. In order to determine if a policy has any shortcomings or to determine if there is room for improvements, officials should be requested to submit quarterly reports on the performance aspects of all policies, programmes and projects. These reports will determine if corrective steps should be taken. If so, these will be channeled into the policy process and the process will repeat itself. For example, the Westonaria traffic department was requested to submit quarterly reports, in order for the Council to determine if their decision to change a particular street into a one-way street has in fact alleviated traffic congestion. It could be argued that if the problem of traffic congestion persisted, the Council would have requested the traffic department to make new recommendations (Minutes of Westonaria Town Council, 3/2000 : 5).

From this it can be deduced that the policy-making process follows a phased approach with no apparent beginning or end. In this regard a council should have a comprehension of the different phases in the policy-making process in order to ensure that all the relevant policy information has been obtained to make an appropriate decision.

2.9 FACTORS INFLUENCING POLICY-MAKING

There are a number of factors a council should take into consideration before adopting a policy, **inter alia**: conditions of establishment, political, financial,

107

organisational, human, operational, legal and technical considerations (Ismail **et al.**, 1997 : 153-156; Botes, 1997 : 306-309).

2.9.1 Conditions of establishment

In terms of section 152(1) of the <u>Constitution of the Republic of South Africa</u>, 1996 (Act 108 of 1996) municipalities are established to provide democratic and accountable government to local communities. This includes a responsibility to provide the local community with basic services such as the provision of sewerage and garbage disposal, water conservation, road construction and, health services (Rossouw, 1999 : 45-47). Councils may only determine policy directions that fall within their scope of authority as listed in Part B of Schedule 4 and Part B of Schedule 5 of the <u>Constitution of the Republic of South Africa</u>, 1996 (Act 108 of 1996).

2.9.2 Political considerations

A municipality is established to serve as the executive agency of a local council. This means that a municipality aims to achieve political aims and for this reason each municipal department is under the legislative direction of a council (Ismail **et al.**, 1997 : 153).

Councillors belong to different political parties and/or groupings, which means that they will in all probability cast their votes according to what they perceive to be politically sound or in accordance with their political party ideologies. It can be argued that the political feasibility of a policy recommendation has a great deal to do with political acceptability among councillors. It would be futile for officials to submit proposals to a council if there would be an outright rejection by politicians because of their political ideology. For example, if the majority of a council are representatives of the African National Congress, as it is the case in Attridgeville, Akasia-Soshanguve and Mamelodi (Local Elections, 1999 :

Internet), council decisions would predominantly be supportive of social-welfare programmes and will in all probability oppose any policy recommendations which would favour more affluent residents.

It can be concluded that a council has the authority to make final pronouncements, but should choose its policy direction very circumspectly to retain the good will or support of its voters. For example, residents of Kagiso in the West Rand were dissatisfied with the suspension of four councillors who participated in a community march against the Krugersdorp Town Council. The suspended councillors were reinstated after more than 2000 protestors marched to the Council's offices and handed over a signed petition demanding their reinstatement   (Minutes of Krugersdorp Town Council Meeting, 6/1999 : 8; Sowetan, 13 July 1999 : 4).

2.9.3 Research and investigations by commissions and committees

If a council is uncertain about the direction to be taken on a specific matter, an **ad-hoc** committee could be appointed to investigate the issue and make recommendations to council. These **ad-hoc** committees normally engage in comprehensive research and provide a council with an extensive range of recommendations. A council does not have to accept any of these committee recommendations. For example, a committee was appointed to investigate the dispute between the Alberton Town Council and the Thokoza Displacees Committee over municipal services debts amounting to more than R5 million. The Diplacees Committee represented more than 3500 Thokoza residents who claim that they have been forced to flee their homes as a result of political violence in the township in the early 1990's. They claimed that their homes were invaded by other residents, who ran up municipal debts that were never paid. In this case an independent committee was appointed to investigate the matter. The committee's proposal to write off all municipal services debts prior to April

1994, was accepted by the Council.   The Council accepted the committee's proposal that residents that have incurred municipal services debts after April 1994, be granted the opportunity to make arrangements with the Municipality to pay these arrears over an extended period of time (Minutes of Alberton Town Council Meeting, 3/1999 : 12-13; Business Day, 29 April 1999 : 8).   It can be argued that councils do not always have time available to investigate local issues, and should for this reason appoint **ad-hoc** committees to make recommendations.

2.9.4 Financial considerations

According to Craythorne (1997 : 90) the financial environment is concerned with the creation of wealth and the consumption of wealth.   Economic development leads to the creation of wealth by encouraging investment in factories, shops, service businesses and industries thereby creating jobs for local residents and increasing the general wealth within the municipal area.   The financial capacity of a municipality will, in the final analysis, determine the viability of any project.   A council should at all times determine whether a municipality has the financial resources to execute a particular project.   For example, in Westonaria it was not financially viable for the Council to widen Newcombe road to alleviate traffic congestion because of the high cost of construction.   However, it was financially feasible to rather change the road into a one-way street (Minutes of Westonaria Town Council Meeting, 3/2000 : 4).

Municipalities need to be resourceful and answerable in its service rendering in an endeavour to restore plausibility of local structures and encourage a willingness and understanding of the principle to pay for services.   In October 1999 the Gauteng local government MEC, Sicelo Shiceka, released a statement that consumer arrears for services and rates payments had reached R5,5 billion and were increasing by an average of R100 million a month (Encarta, 1999 : Internet; Business Day, 16 October 1998 : 5).   In the period from July to December 1999

more than 35 000 people were taken to court by various municipalities in Gauteng and 261 162 residents had their electricity and water services cut (Encarta, 1999 : Internet; The Citizen, 5 May 1999 : 11).   This implies that the ability of municipalities to finance municipal services is decreasing due to an increasing inability of communities to pay for services (Rossouw, 1999 : 55-57).   Thus effective financial administration of a municipality becomes more difficult, because a council is expected to raise between 90% and 95% of its revenue from its own resources. However, insufficient revenue is raised as a result of non-payment and failure to implement measures to obtain the rates and service charges. Gauteng's provincial auditor released an audit report on 25 January 1999 stating that the Krugersdorp Town Council was in debt to the tune of R150 million. According to the audit report, the Council neglected to do bank reconciliation and debtors' control.   There was no record on the movement of funds and reserves, and details of amounts owing in respect of government housing loans of more than R6 million could not be obtained (Gauteng Provincial Auditor-General, 1999 : Interview; The Star, 27 January 1999 : 6). Thus, it could be argued that councils should ensure that qualified financial personnel are appointed and appropriate control mechanisms are put into place to ensure financial accountability.

The Department of Constitutional Development (now the Department of Provincial Affairs and Local Government), announced on 10 October 1998 the creation of a Municipal Transformation Programme Board to co-ordinate and maximise the impact of donor aid to municipalities. The aim of this Board was to determine overall priorities for municipal capacity-building and identify gaps in existing support initiatives. Donors were encouraged to approach the board for information as to which areas and projects would contribute most to transformation (Senior Administrative Officer for the Department of Provincial Affairs and Local Government, 1998 : Interview; Business Day, 15 October 1998 : 2). It could be argued that although donor aid is available, councils are basically reliant on their capacity to secure an own revenue base to render services and perform its functions. The focus of training in this regard should not only be on how to secure

its revenue base, but also on finding new sources of income and how to effectively control financial resources.

2.9.5 Human resources

Before adopting a policy a council should determine whether a policy recommendation has any human resource implication for a municipality. According to Ismail **et al.**, (1997 : 154), the acceptance of a policy "....*may lead to a transfer of personnel, the appointment of new personnel or even retrenchment*". The retrenchment of personnel in a municipality is a sensitive matter that will be closely monitored by unions. It is necessary for a council to consult the appropriate labour unions or personnel representatives before a policy is adopted. For example, the outsourcing of the maintenance of municipal gardens in Vosloorus led to the retrenchment of all the municipal gardening personnel. In this regard the Council's decision had to be well substantiated and supported by all the appropriate labour unions. Pressure from SAMWU however, led to the reappointment of gardening personnel in a smaller unit, whilst others were transferred to new posts (Spokesman for the South African Municipal Workers' Union, 1999 : Interview; The Star, 14 October 1999 : 5). Thus before taking any decision regarding human resources, a council should consult the appropriate labour unions or personnel representatives.

It can be argued that in considering a policy recommendation a council should also consider the availability of personnel as well as their standard of training. If a council's policy requires an increase in the number of personnel, the associated financial implications should be considered.

2.9.6 Operational feasibility

A council has to be sure of the ability of the municipality to actually execute a policy. Before adopting or approving a local policy a council has to be convinced

that the municipality has the administrative capacity to implement the decision (Ismail **et al.**, 1997 : 154).   For example, in considering the feasibility of a proposal to combat an increase in juvenile delinquency by the building of a recreational park in Delmas, the availability of land, as well as the financial and human resources capability of the Municipality had to be considered.   Once these elements were considered, the Council accepted the proposal and the establishment of a recreational park were approved (Minutes of Delmas Town Council Meeting, 7/1999 : 15).

2.9.7 Legal implication

In terms of section 156(3) of the <u>Constitution of the Republic of South Africa</u>, 1996 (108 of 1996) councils have to ensure that all policy recommendations fall within the legal framework of both national and provincial legislation. If councils do not properly formulate local policies, it could result in the courts of law setting it aside. According to Ismail **et al.**, (1997 : 154) councils should at all times "...*uphold the rule of law and respect the Bill of Rights when considering policy matters*". Any policy of a municipality will, therefore, be tested against legal principles of the administrative law. The actions of a council require that the rights and freedom of people be dealt with in a responsible way. If a council applies an illegal and unlawful policy, the municipality can be held responsible if a citizen sustains harm in any way. According to Botes (1997 : 307) there are "...*a great number of definite issues in administrative law which can exercise a direct influence on the policy-making taking place...*" in a municipality.

In May 1999 the Independent Municipal and Allied Workers Union (IMATU) instituted legal procedures against the Leandra Town Council for administrative irregularities. For more than two years the Council had deduced, but not paid over the municipal officials' contributions towards their pension fund, group life insurance, unemployment insurance, labour union contributions, and prevention fund.   Amounts of up to R25 000 were claimed from families for medical

payments in arrears.   Pensioners were not receiving their pensions; unemployment and funeral policies were not paid out and officials were burdened with extra interest on their home loans.   The Council attributed the omission to an administrative problem, and paid over the outstanding contributions (Spokesman for Independent Municipal and Allied Workers Union, 1999 : Interview).   Thus, a council should ensure that all municipal actions are legal or it could face the consequences of a verdict in a court of law.

2.9.8 Technical feasibility

A council does not have to acquaint itself with the technical details of a policy, but rather be assured that the technical side of projects is well administered by officials. For example, the Chrissiesmeer Local Council was of the opinion that it did not have the technical capability within the Municipality to implement a storm water drainage system, and decided to put out a tender for the project (Minutes of Chrissiesmeer Local Council, 4/1999 : 2). The Council did not get involved in the technical requirements of implementing a storm water drainage system, but had the responsibility of ensuring that the contractor does have the necessary technical expertise to execute the project. This was done by specifying in the tender that contractors should provide the Council with a descriptive list of similar jobs that they have done in the past three years.

2.9.9 Physical facilities

In considering a policy recommendation a council should take into account its available physical facilities, such as amenities, warehouses, office space, machinery, grounds, apparatus and modes of transport. If a council is of the opinion that adequate facilities are not available, additional structures will have to be acquired which obviously will have an effect on the financial capacity of the policy (Ismail et al., 1997 : 155).

2.9.10 Circumstances

A council should be cognisant of the fact that circumstances in a community are created by changes in both time and place. For example, the Hennopsriver due to high levels of rainfall, normally overflows its embankments during the summer of every year. In March 1999 the river again overflowed and this resulted in the flooding of numbers of informal shacks in the proximity of the river embankment. The Centurion Town Council took immediate action to assist the victims of the flooding with shelter, blankets and food. The Council followed their initial relief support up with the enforcement of regulations regarding construction in the proximity of a river (Minutes of Centurion Town Council Meeting, 5/1999 : 7-8; The Centurion, 10 June 1999 : 1). It could be argued that councils should allow for changing circumstances to guide them in their decision-making.

2.9.11 Pressure groups, interest groups and mass demonstrations

Residents form pressure groups or participate in mass demonstrations when they have strong convictions regarding an issue and wish to make this known to a local council. For example, more than 200 members of the Braamfontein Hawkers' Front (BHF) took part in a public demonstration on 17 September 1999 before handing over two memoranda outlining their dissatisfaction against being removed from trading sites in the city centre. Their complaint stipulated that they were unhappy that the Council passed a by-law without consulting the BHF. The BHF felt that they had a constitutional right to be economically active and that the Braamfontein Town Council was responsible for the high unemployment rate and poverty in the city. A committee comprising of the Council and the BHF was established to address the BHF's concerns. A proposal of the BHF to utilise part of the taxi rank in the city centre was accepted by the Council and demarcated for informal trading activity (Spokesman for the Braamfontein Hawkers Front, 1999 : Interview; The Star, 18 September 1999 : 5).

2.9.12 Personal views of public servants

Municipal officials are appointed on the basis of their special knowledge, experience and disposition, and it can therefore be expected that the personality of such a person would in one way or another make an impact on local policy (Craythorne, 1997 : 306-307).

From this it can be deduced that there are a number of factors that influence policy-making. It is necessary for councillors to be made aware of these factors and for them to effectively analyse the impact these factors will have on the policy-making process.

According to Carson and Williams (1982 : 405), uncertainty in policy-making normally exists *"...because of the absence of reliable information which is the result of conditions which are not exactly known, and which in turn makes prediction impossible"*. Hanekom (1996 : 54-55) argues that uncertainty is endemic to the policy-making process and the implementation of policy programmes. There are a number of factors that could cause uncertainty regarding the success of a local policy, such as a lack of knowledge or agreement about the problems that policy-makers face or the actions that are appropriate, bureaucratic differences and sudden crises (Cameron and Stone, 1995 : 145). A local council will have to accept the fact that to aspire to a purely rational, objective assessment of the local community's problems, the analysis thereof, and the effective and efficient implementation of the options selected, will not always be a smooth process without technical difficulties (Lindblom, 1961 : 232).

Under apartheid government in South Africa the domination of a white minority, and a governmental structure that is centralist and elitist were major sources of uncertainty (Wallis, 1992 : 37-38). According to Hanekom (1996 : 54), the black

116

population, as formerly defined, was *"...threatened by the reality of minority rule, the responses of western democracies to the measures taken by the ruling minority, as well as by the prospects of majority rule"*. Uncertainties were compounded by differences within each racial community and the prevalence of violence. Under the majority rule of the African National Congress (ANC) the major sources of uncertainty include rising expectations regarding job creation and the redistribution of wealth, the slow pace of community development projects, and an increase in crime.

Hanekom (1996 : 67-68), suggests that in a situation of uncertainty a council should place a premium on focusing attention and resources on the most essential local aspirations. In defining and implementing policy objectives a council should muster and organise supporters, pursue tactics against probable adversaries, ensure its control over the policy-making process, and use power in order to implement goals. This process implies an ability of councillors to handle conflict, persuade, and negotiate (Schwella and Ballard, 1996 : 8-10). Uncertainty is an inevitable part of any policy-making process, normally accentuated by adversaries in the form of criticism (Hanekom , 1994 : 67-68). It is, however, common practice for policy-makers to bluff and threaten in the negotiation process (Wildavsky, 1979 : 31-32). The success of local policies will be ensured as long as councillors remain realistic about what is realistic among their objectives.

It is expected of councillors to cope under conditions of extreme uncertainty. It implies a commitment to making progress with resolving policy issues, or as Hanekom (1996 : 61-62) puts it *"...keeping below the level of intolerable suffering"*. It is the responsibility of council to enact policy that will lead to an improvement in community life (Wildavsky, 1979 : 32-33). It could be argued that uncertainty is part and parcel of the local policy-making process and that councillors should be made aware of how to effectively cope with uncertainty.

117

2.10   POLICY INSTRUMENTS

According to Ismail **et al.**, (1997 : 162-164) policies find their way on to the agenda of councils by different routes.   These are referred to as policy instruments, **inter alia**, legislation, taxation, the budget, persuasion, inspection, minutes of council meeting, council records, the provision of services, community newsletter, media briefings and community meetings.

2.10.1   Legislation

In terms of section 156(2) of the <u>Constitution of the Republic of South Africa</u>, 1996 (Act 108 of 1996) a council has the legal power to formulate legislation for its area of jurisdiction, through by-laws or regulations. In formulating a by-law a council may not in terms of section 156(3), contravene constitutional provisions, and national or provincial legislation. The fact that legislation is accepted does not necessarily imply that the problem will automatically disappear. For example, the Braamfontein Town Council declared the central business district area a restricted trade area, but informal traders still continued to conduct business in the area, which meant that the problem had not been adequately resolved. The Council initially appealed to the law enforcement officers to fine the perpetrators. However, the problem persisted, but was eventually satisfactorily resolved by demarcating a new trading area for the informal traders to conduct their business (Minutes of Braamfontein Town Council Meeting, 6/1998 : 2).   Although legislation is a formal and enforceable policy instrument, it can be concluded that it does not always render the desired outcome.

2.10.2   Rates and taxes

In terms of section 160(1) of the <u>Constitution of the Republic of South Africa</u>, 1996 (Act 108 of 1996) municipalities may impose e.g. service charges, such as

for sewerage and refuse removal; property rates, which are usually based on the value of the land, or land and improvements; and trading services, such as electricity and water.

It can be argued that councils have to be aware of the sources of income available to a municipality. The fact that a council has to generate the bulk of its income, means that ways need to be found in how to effectively extract taxes and payment for services from the community.

2.10.3   Budget

A municipality's budget translates the policy of a municipality into concrete programmes and projects, with an indication of the costing involved in the implementation of such programmes and projects.   Municipalities prepare budgets annually and these are then submitted to councils for approval. The approved budget is also regarded as the financial policy of a council.   For example, the Greater Johannesburg Metropolitan Council's budget priorities for 1999/2000 included tackling basic needs, maintaining existing infrastructure, enhancing revenue collection, enforcing credit control measures, improving income generation and reducing emphasis on revenue absorption services. (Minutes of Greater Johannesburg Council Meeting, 2/1999 : 3-9; Business Day, 25 June 1999 : 3).

It can be concluded that the budget provides citizens with an indication of a council's policy objectives and; it is a concrete plan for officials of how revenue is to be applied. However, as a council has to authorise the budget it should be sufficiently informed to evaluate the document containing the various proposals.

2.10.4   Persuasion

Persuasion is an informal instrument whereby local councils persuade the local

community for example, to recycle waste products, to pay for services, to keep their environment tidy, or to pick up dog litter in public places. Persuasion is done subtly by for example, handing out pamphlets at municipal offices or sending notices with the monthly accounts to residents (Ismail **et al.**, 1997 :165). For example, the Centurion Town Council tried to persuade occupiers of informal settlements on the bank of the Hennopsriver not to erect any shacks below the flood level of the river by addressing the squatters on numerous occasions and handing out pamphlets. This approach was reasonably successful to the extent that 32 families out of approximately 140 families moved and found shelter elsewhere (Minutes of Centurion Town Council Meeting, 3/1999 : 2).

2.10.5   Inspections

The most comprehensive plan will not be successful unless it is implemented properly. In this regard councillors should inspect projects in order to ensure that the implementation conforms to prescribed standards. Inspections should be arranged on a continuous or an **ad-hoc** basis for councillors as to be informed on the progress and any shortcomings experienced during the implementation phase. Insight gained from inspections will enhance deliberations at council meetings.

2.10.6   Provision of services

The provision of services is the most widely used and visible policy instrument since it deals with the implementation of policy by municipalities. For this reason it is also subject to widespread criticism from local communities. The Attridgeville-Saulsville Concerned Residents' Association (ASCORA), for example, accused the Pretoria Metropolitan Council of overcharging local residents. Many residents received different rent and service accounts to pay monthly. ASCORA claimed that the Council failed to be accountable to the community regarding deliberate errors on rent and services accounts

(Spokesman for Attridgeville-Saulsville Concerned Residents' Association, 1999 : Interview; Pretoria News, 14 January 1999 : 2). It can be argued that councils have to ensure that services are delivered as required and expected by the communities served. This in turn will require councillors to be **au fait** with the different services and the quality of such services to ultimately accept responsibility for the executive actions.

2.10.7   Community newsletter

The periodical distribution of a community newsletter informs citizens of decisions taken by a council, the status of current projects, and of any new developments in their area. Community newsletters should invite comments from the public, in order for a council to determine the attitude of citizens on specific issues, and then develop proactive strategies to deal with them. This would be in line with section 152(e) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) which stipulates that community involvement in local matters should be encouraged. In this regard the Centurion Town Council attaches a newsletter to its monthly municipal account to residents. These newsletters contain information regarding decisions taken by council, the Council's financial position, the status of municipal projects and the results of surveys conducted by the Municipality.

2.10.8   Media briefings

Media briefings are arranged by councils from time to time to issue a media statement, or to clear up any policy ambiguities, or even to reconfirm existing policies (Rossouw, 1999 :34-35). It is an effective way of reaching a wider audience, but poor journalism or the wrong interpretation by reporters, may convey a wrong impression to the community. It could be argued that in order to avoid this from happening a council should rather release a written statement that leads to correct interpretation. In 1999 the Westonaria Town Council

released 10 official statements, predominantly on issues relating to service-delivery, all of which were positively accepted by the community (Personnel Officer for Westonaria Municipality, 1999 : Interview).

2.10.9   Community meetings

Community meetings are held to provide feedback on activities of a council. A council normally mandates a councillor to address the meeting on its behalf. The primary focus of these meetings should be to inform the community regarding developments and financial implications or expectations. Ismail **et al.**, (1997 : 162-163), suggests that these meetings should be held on a quarterly basis to reach the more concerned and serious-minded citizens in the community. In 1999 only 5 out of 22 councillors attending a policy workshop presented by Dynamic Resource Solutions (DRS) admitted that they held meetings with their wards. On closer investigation it proved that these councillors have been representing their community on average for 12 years. It would seem that these meetings with their wards not only assisted councillors in staying in contact with the needs, desires and demands of the community, but it can be argued that it ensured a higher voter turnout for these councillors during elections. Thus there is a benefit in staying in contact with the electorate and community meetings should be utilized as often as possible.

It can be concluded that there are various policy instruments through which a council can be made aware of the needs, desires and demands of the community. A council should be made aware of these policy instruments and how best to extract policy-relevant information from the community.

2.11   POLICY ANALYSIS

As municipalities in South Africa plan for the future, effective policy-making has become of critical importance. It articulates visions of society, and points out

122

ways and means to get there. Bayat and Meyer (1994 : 18) state that: *"During the apartheid years, public policy reflected a minority perspective ... now that democracy has a foothold ... South Africa must avoid the policy elitism of the apartheid era."* The critical challenge is to ensure that councilors have the skills to pose policy questions, to evaluate alternatives, and to anticipate the intended and unintended consequences of favoured policy initiatives.

The inherent nature of local policy is seldom understood if not perceived as a complex and multi-facetted phenomenon. In its simplest form local policy is what municipalities intend to do, what they actually do, or don't do (Dye, 1987 : 1-3; Hogwood and Gunn, 1984 : 15-24; Nigro and Nigro, 1986 : 23-24; Koontz and O'Connell, 1986 : 33-36). Policy analysis, on the other hand, is an endeavour to determine the costs and benefits of various alternatives or to evaluate the validity of existing local policies. Thus policy analysis is an attempt to bring about and transform information pertinent to particular local policies to resolve problems pertaining to those local policies (Mead, 1985 : 419-420; Roux, 1971 : 44-46). The analysis of local policies, therefore provides a council with policy-relevant information that could be utilised in the formulation of local policy, either in devising proposed policies or adapting existing policies.

According to Hanekom (1987 : 66-67) the reasons for policy analysis can be scientific, professional or political. **Scientific reasons** pertain to determining the costs and consequences of local policy whilst ensuring continued growth of municipal activities irrespective of complexities in social issues or the development of new technologies that have a bearing on the quality of local service. **Professional reasons** for policy analysis involves a search for and assessment of alternative policy options. By forecasting the direct and indirect impacts and long-range effects of existing or proposed policies by the application of cost-benefit analysis, modeling or simulation to the different options the success rate in implementation could be increased. **Political reasons** for policy analysis are concerned with guaranteeing that envisaged needs, demands and

123

desires are attained by fitting local policies. It ensures that a councillor is furnished with the information that will enable a council to understand the complexity of the local issues which are dealt with, resulting in feasible policy.

It could be argued that in analysis of local policy in its purest sense, utilises the expertise of private consultancy firms, such as Anderson Consulting, Deloitte and Touche and, Ernest and Young. Such consultancy firms are expensive and utilise state of the art technology - all of which may be too expensive to most municipalities in South Africa. Municipalities do however, make use of smaller consultancy firms which are less expensive, however with less sophisticated equipment. But, for the most part councils utilise the skills of their municipal officials to assist them in the analysis of local policy.

2.12 CONCLUSION

A local council formulates policy that provides the direction to be followed by the executive departments to attain specific goals. Without laying down clear, written policies no activity of a municipality can be executed efficiently and effectively. Although the goals of municipalities are normally fixed and rigid, the comparable policy should continuously be tried against changing circumstances to determine whether the policy still fulfils the needs, desires and demands of the local community.

This chapter concerned the nature of local policy, as well as the characteristics and manifestations of local policy. This is followed by an exposition of the policy-making levels within a municipality. The different phases in the policy-making process are deliberated as well as the factors influencing the process. The roles of councillors, officials, citizens and interest groups in the policy process were also discussed.

A number of areas in which training of councillors should take place have been identified. These include an understanding of the manifestations of local policy; identifying strategic policy issues and how to operationalise these goals through its organisational structure; as well as an ability to take the perspectives of other stakeholders in the policy-making process into account. Newly elected councillors should comprehend the different policy-making phases in order to ensure that all the relevant policy information has been gathered to make an appropriate decision. The training of newly elected councillors should include an awareness of factors that influence policy and to effectively analyse its impact or the effects of a combination of these factors, could have on the policy-making process; and finally a comprehension of policy instruments through which a council can be made aware of the needs, desires and demands of the community.

In Chapter 3 the different resources that a council utilises in an attempt to realize their objectives in terms of their governing and representative responsibility will be discussed.