

CHAPTER 1

THE NATURE OF THE STUDY

1. INTRODUCTION

Intergovernmental relations in South Africa are currently evolving. The Constitution of the Republic of South Africa, 1996 that took effect in February 1997, opens a new approach to the relations between the three distinctive, interdependent and interrelated spheres of government. In certifying the Constitution, the Constitutional Court of the Republic of South Africa (First Judgement of the Constitutional Court on the Certification of the Constitution of the Republic of South Africa, 1996: Paragraph 287) emphasised the importance of the notions of intergovernmental relations and co-operative government by *inter alia* stressing as follows:

“The constitutional system chosen by the Constitutional Assembly is one of co-operative government in which the powers of important functional areas are allocated concurrently to the national and provincial levels of government. This choice, instead of one of competitive federalism which some political parties may have favoured, was a choice which the Constitutional Assembly was entitled to make in terms of the Constitutional Principles.”

In view of the above, it is clear that co-operative government can be regarded as one of the cornerstones of the new constitutional dispensation in South Africa and that intergovernmental relations in both the legislative and executive areas of government can be regarded as a practical instrument for ensuring co-operative government. Chapter 3 of the Constitution of the Republic of South Africa, 1996 also concludes by stating that an Act of Parliament must:

- establish or provide for structures or institutions to promote and facilitate

intergovernmental relations.

- provide for appropriate mechanisms and procedures to facilitate intergovernmental relations.

In view of the above, the Department for Provincial and Local Government has, over the past few years, embarked upon a process that has led to the White Paper on Co-operative Government and Intergovernmental Relations with a view to primarily deal with constitutional requirements as stated above. This White Paper process was followed by the publication of the Intergovernmental Relations Framework Bill of 2004. The aforesaid Bill became an Act in August 2005 which is known as the Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005). Although the relevant Act on intergovernmental relations was passed at the end of 2005, the actual implementation of the Act will, as per section 33(4) of the Intergovernmental Relations Framework Act, 2005, take a year. It is evident therefore that the desired state of affairs is still evolving. Hence the importance of this study in providing a conceptual input on the subject that is critical in the continuing policy formulation process at the different spheres of government. In order to make a contribution to the development and improvement of an effective and unique system of intergovernmental relations in South Africa, this study was selected. Although the passing of the Intergovernmental Relations Framework Act, 2005 is acknowledged, this study focuses primarily on the period prior to the passing of the Intergovernmental Relations Framework Act, 2005.

Hence the purpose of this study is to establish if the intergovernmental relations in South Africa facilitate the performance of the local sphere of government with a view to help improve the role of intergovernmental relations, especially the extent to which it impacts on the local sphere of government in the delivery of services. In brief, the purpose of this study is to assess and evaluate the role of intergovernmental relations and the extent to which intergovernmental relations facilitate the performance of the local sphere of government in the delivery of services with

specific reference to the City of Tshwane Metropolitan Municipality (i.e. for the period prior to the passing of the Intergovernmental Relations Act of 2005). In terms of Section 40(1) of the Constitution of the Republic of South Africa, 1996, government is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated. For the purpose of this thesis, the field of study is restricted to the local sphere of government, with specific reference to the City of Tshwane Metropolitan Municipality.

2. THE STATEMENT OF THE RESEARCH PROBLEM

The role of intergovernmental relations in facilitating the performance of the local sphere of government in the delivery of services was envisaged as far back as 1994 when the African National Congress first published the Reconstruction and Development Programme (RDP). In this regard, the Reconstruction and Development Programme of the African National Congress (1994:130) states *inter alia* that local government should be assisted to deal with existing backlog of municipal services through intergovernmental transfers from central and provincial government, according to criteria established by the Financial and Fiscal Commission. In view of the vision of the Reconstruction and Development Programme and the challenges that face municipalities in South Africa, the problem arises regarding the role of intergovernmental relations in facilitating the performance of local government in the achievement of these challenges. The research problem is therefore **the role of intergovernmental relations in facilitating the performance of the local sphere of government in service delivery.**

The White on Local Government (1998:15-16) in particular states some of these challenges such as skewed settlements, extreme concentration of taxable economic resources in former white areas, huge backlogs in service infrastructure in historically underdeveloped areas, creating viable municipal institutions for dense rural settlements and inability to leverage private sector resources for development.

The national and the provincial governments have a crucial role to play with regards to intergovernmental relations in the local sphere of government (White Paper on Local Government, 1998:39-40). In view of the problem stated above, the question arises as to whether intergovernmental relations facilitate the performance of the local sphere of government in service delivery. More specifically, the research question which drives this study is:

“Do intergovernmental relations in South Africa facilitate the performance of the local sphere of government in the delivery of services with specific reference to the City of Tshwane Metropolitan Municipality?”

As Schwella (1991:297) argues, research begins with a question and asking the right questions contribute to the relevance and quest for truth. Punch (2005:16) supports the importance of a research question by stating that in her supervising experience, she prefers to focus on the concept of research question, as a generally useful way of helping students in their research planning. The author concurs with the assertions above, hence the research question as stated above will guide the research study.

In this respect, intergovernmental relations may be defined as a set of multiple formal and informal processes, channels, structures and institutional arrangements for bilateral and multilateral interaction within and between spheres of government (White Paper on Local Government, 1998:38). The abovementioned question leads to the search for answers which will help improve the role of intergovernmental relations in South Africa, especially the extent to which it impacts on the local sphere of government in the delivery of services. In order to obtain answers to the above research question, the objectives of this research will be to assess and evaluate the role of intergovernmental relations in South Africa; and to evaluate whether intergovernmental relations facilitate the performance of the local sphere of government in the delivery of services. In searching for the answers to the question raised, a hypothesis is defined below.

A hypothesis may be described as a suggested, preliminary, yet specific answer to a problem which has to be tested empirically before it can be accepted as the concrete answer and incorporated into a theory (Bless & Higson-Smith, 2000:33). It can also be interpreted as a relationship between at least two variables and put differently, a hypothesis is actually that which one wants to know (Brynard & Hanekom, 1997:19). A hypothesis proceeds from a statement of the research problem and serves as a point of departure and as directive for the planned research (De Wet *et al.*, 1981 in Brynard & Hanekom, 1997:19). Johnson (2002:13) also states that a hypothesis serves as the basis for experimentation to test theories, as conjectures put forth to explain relationships or a statement that specifies the relationship between variables. In this study the suggested answer to the research problem and question is: “Intergovernmental relations in South Africa facilitate the performance of the local sphere of government in the delivery of services with specific reference to the City of Tshwane Metropolitan Municipality.”

With regards to the type of a hypothesis, a hypothesis can either be deductive or inductive. A deductive hypothesis is derived from existing theories by means of deductive reasoning and indicates an expected relationship between two variables whereas an inductive hypothesis is based on what the researcher observes and what the researcher observes as the problem (Brynard & Hanekom, 1997:19-20). A variable can be defined as an empirical factor or property which is capable of employing two or more values (Brynard & Hanekom, 1997:20). Johnson (2002:14) also defines a variable as a measurable and observable characteristic. In addition, variables consist of dependent and independent variable and in this regard, Johnson (2002:16) describes the independent variable as the causal or exploratory variable and the dependent variable as the variable being explained. Brynard & Hanekom (1997:20) concur with Johnson [*supra*] by describing a dependent variable as the factor which is observed and measured and which varies with the introduction or manipulation of the independent variable whereas an independent variable is described as the factor which is deliberately varied, manipulated or selected by the researcher in order to determine its relationship to an observed phenomenon.

In this study, the type of a hypothesis concerned is a deductive hypothesis as it indicates an expected relationship between variables, namely intergovernmental relations and the performance of the local sphere of government. In terms of the suggested answer to the research problem and question, intergovernmental relations is an independent variable in the sense that it causes the performance of the local sphere of government. Whereas the performance of the local sphere of government is a dependent variable in the sense that it is the variable being explained. The relationship between these variables therefore is that the performance of the local sphere of government is dependent on intergovernmental relations. Hence the title of the thesis which is as follows: “Intergovernmental relations in the local sphere of government in South Africa with specific reference to the City of Tshwane Metropolitan Municipality”.

Having formulated the hypothesis (suggested answer to the research problem and question) and the title of the research, as lucidly and as concisely as possible, the focus will now be on the limitations of the research study. With regards to the limitations of the research study, the research is limited to the role of intergovernmental relations in the local sphere of government in South Africa with specific reference to the City of Tshwane Metropolitan Municipality. However, general references will be made to other spheres of government where it is necessary to substantiate specific arguments. Other developments taking place outside the jurisdiction of the City of Tshwane Metropolitan Municipality will, where applicable, be brought into the study. In the case of this study there were no limitations in the gathering of information and all information relevant to the research problem and question was accessed and analysed. The time frame for this study is a three year period beginning from 1 July 2000 and ending on 30 June 2003, but in view of the legislative changes that took place, it has been extended until 30 June 2005. The study aligns itself with the financial year for the municipalities which runs from 1 July to 30 June of the following year, and particular attention will be on the financial years: 2000/2001, 2001/2002 and 2002/2003.

Although the Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005) as passed into law in August 2005, does not fall within the time frame of this study (and was passed when this study was nearing its completion), it will be briefly discussed in this study as it directly impacts on information that is alluded to in this study.

3. BACKGROUND INFORMATION ON THE TRANSFORMATION OF LOCAL GOVERNMENT IN SOUTH AFRICA

3.1 Introduction

Apartheid (a policy of racial separate development) left its legacy on South Africa's human settlements and municipal institutions. Transformation of local government and intergovernmental relations require an understanding of the historical role of local government in creating and perpetuating local separation and inequity and the impact of apartheid on municipal institutions. Equally important is the history of resistance to the system of apartheid at the local level and the struggles against apartheid local government (White Paper on Local Government, 1998:1).

3.2 Racial Segregation

Apartheid was not the beginning of geographic, institutional and social separation at the local level. Segregation was already a policy by the time apartheid was introduced by the White nationalist party in 1948 (White Paper on Local Government, 1998:1). However, the Group Areas Act, 1966 (Act 36 of 1966) was one of the key pillars of the apartheid legislation. This Act ensured a strict residential segregation and the compulsory confinement of Black people to their "own group" residential areas. Through this separation, the apartheid government aimed to limit the extent to which affluent White municipalities would bear financial burden of servicing disadvantaged Black areas.

The Group Areas Act, 1966 restricted the permanent presence of Blacks in urban areas through the pass system. It reserved a viable municipal revenue base for White areas by separating (Black) townships and industrial and commercial development. This in essence meant that limited local government, which lacked proper resources, was established in Black urban areas, and in rural areas, in so the called homelands, the traditional leaders were given power over land allocation and development matters. In the case of Indian and the Coloured communities, management committees were established to act as advisory bodies to White municipalities. As Reddy (1996:53) states, the policy of apartheid did not regard Blacks as permanent citizens of South Africa and their presence in urban areas was linked to their contribution to the urban economy and consequently towns and cities in South Africa were divided along racial lines.

3.3 Financial Constraints

Historically, the major part of the local government revenue in urban areas is self-generated, primarily through property taxes and the delivery of services to residents and businesses. During the apartheid era this revenue base favoured White municipalities which had relatively small populations to serve and attracted large concentrations of economic resources to tax. This state of affairs inevitably led to the financial shortfalls in the local authorities for Black areas as apartheid regulations prohibited most retail and developmental investments in Black areas. This meant that residents and businesses from Black townships had to spend most of their income in the white areas which in turn deprived the Black municipalities the financial means to meet the needs of their local residents.

(White Paper on Local Government, 1998:2)

The same pattern of discrimination took place in some rural areas where water and electricity were supplied to white residents at large cost whilst blacks in the same rural areas were largely disregarded. This state of affairs inevitably led communities to mobilize their opposition against the apartheid local government system. As the

national political campaign gained momentum, communities started to mobilize their opposition against the payment of rent and service charges. Although the apartheid government tried to prop up the collapsing Black local authorities and calm tensions by providing funding to affected areas, this intervention was seen by the affected communities as too little too late and by 1988 most Black townships and many rural areas were effectively ungovernable (White Paper on Local Government, 1998:3).

As Cameron (1991:153) states, there was a deliberate attempt by the apartheid government to restrict commercial and industrial activity of Black people which forced some black businesses to move to the homelands and under the circumstances it was generally accepted that conditions in rural areas were much worse.

3.4 Collapse of Apartheid Local Government System

The collapse of the apartheid local government system led to a crisis which led to the realization that a new dispensation in local government was needed. White municipalities started to enter into negotiations with their black counterparts due to the negative financial impact of organised consumer, service and rent boycotts. These negotiation fora started as mere crisis management structures. However, these initial talks formed the basis for later local government negotiations and the system of local government currently in use (White Paper on Local Government, 1998: 3). Furthermore, these local government negotiating fora recognized that the legal constraints which excluded Black residents from the municipal tax base had to be addressed nationally and that the popular slogan, “One City, One Tax Base,” could only be realized through national legislation (White Paper on Local Government, 1998:3).

With the above brief historical background in mind, the developments in local government since 1993 up to the holding of the 5 December 2000 local government elections will be discussed further. For a start, the launch of the Local Government

Negotiating Forum will be discussed as it was the forum in which national debate on the future of local government took place.

3.5 The Launch of the Local Government Negotiating Forum

The Local Government Negotiating Forum was launched on 22 March 1993 during the broader constitutional deliberations that took place at Kempton Park. The discussions of the Local Government Negotiating Forum resulted in the Local Government Transition Act, 1993 (Act 209 of 1993), Chapter 10 of the interim Constitution of the Republic of South Africa, 1993, and the Agreement on Finances, Services and Service Rendering. In essence, the Local Government Transition Act, 1993 established the basic timelines for the restructuring of local government by providing for the following:

- the pre-interim and interim phases for the restructuring of local government;
- the establishment of provincial committees for local government;
- the establishment of local forums for negotiating the restructured form of local government in each area for the pre-interim period;
- provincial demarcation boards to set the boundaries of local authorities and delimit the electoral wards within them.

The White Paper on Local Government (1998:4) concurs with the above by stating that the Local Government Transition Act, 1993 mapped out three phases of transition namely:

- the pre-interim phase, which prescribed the establishment of local forums to negotiate the appointment of temporary Councils, which could govern until the municipal elections.

- the interim phase, that commenced with the municipal elections and lasted until a new local government system has been designed and legislated upon, and
- the final phase, when a new local government system will be established.

It is clear from the above that the Local Government Transition Act, 1993 was, as its name denotes, a transition act that was primarily meant to facilitate a transition from the pre-interim phase through the interim phase into the final phase. One of the weaknesses of Local Government Transition Act, 1993 was its urban bias and the lack of structured support processes to enable municipalities to manage the change process (White Paper on Local Government, 1998:4). The other weakness identified in the White Paper on Local Government (1998:4) is that the delimitation of wards in a manner that skewed representation and the requirement that municipal budgets must be approved by a two-thirds majority in council. Although these weaknesses might have slowed down the transformation process, the author contends that these were necessary compromises for the smooth transition to take place.

3.6 Local Government Elections

The pre-interim phase of local government ran from the promulgation of Local Government Transition Act, 1993 until the first democratic local government elections of November 1995. The pre-interim local councils comprised representatives from the statutory and non-statutory groups. Statutory representatives were drawn from the existing local government establishment such as political parties and ratepayers associations whereas non-statutory representatives were drawn from previously excluded groups such as trade unions, civic organizations and formerly banned organizations (David Pottie, in the South African Local Government Website, History: 2003).

3.7 Local Government Elections in the City of Cape Town and KwaZulu-Natal Province

Due to the disputes over the demarcation of metropolitan and substructure boundaries, as well as irregularities in the voter and candidate registration process, elections in the metropolitan Cape Town and the entire province of KwaZulu-Natal were delayed beyond 1 November 1995 when the whole country voted in the local government elections; and the Local Government Transition Act, 1993 was, as a result, amended to enable the pre-interim structures to function until 31 August 1996 (David Pottie, in South African Local Government Website, History: 2003). A transitional metropolitan sub-structure according to the Local Government Transition Act, 1993 means a primary local authority for a metropolitan area of local government as contemplated in section 7(1)(b)(ii) for the pre-interim phase, and as contemplated in section 8 (1)(b) of the Local Government Transition Act, 1993 for the interim phase. Chapter 10 of the interim Constitution of the Republic of South Africa, 1993 acknowledged differentiation categories of autonomous, urban, and rural areas with different powers, structures, and functions according to the area in question.

3.8 Launch of the South African Local Government Association (SALGA)

In November 1996 the launch of the South African Local Government Association (SALGA) marked an important step in the transformation process of local government. One of SALGA's objectives is to represent, promote and protect the interests of local government. The SALGA constitution also requires it to consolidate democracy at the local sphere, to fulfil the developmental role of local government, and to serve as the national employer's organization for its members. The mission of SALGA is to build an integrated and sustainable organized local government that acts as the voice of local government in provincial, national, regional and international relations; supports and strengthen municipalities; and serves as a centre for knowledge and information (Thabo Mokoena, Presentation on Organised Local Government to IMFO Conference: 26 September 2001).

Given the statement of the problem in this study, it is evident from the mission that

SALGA was created to play a central intergovernmental relations role on behalf of organised local government. Thus it could be concluded that SALGA is a key intergovernmental relations structure that is designed to facilitate the performance of the local sphere of government in the delivery of services.

3.9 Constitution of the Republic of South Africa, 1996

In terms of the Constitution of the Republic of South Africa, 1996 local government is formally designated as a distinct sphere of government and section 152(1) of the Constitution of the Republic of South Africa, 1996 spells out the objects of local government as follows:

- 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 a safe and healthy environment;
- to encourage the involvement of communities and community organizations in matters of local government.

Thus it could be concluded that local government is a constitutionally recognised component of government. And as such it possesses original powers.

3.10 Green Paper on Local Government

The Green Paper on Local Government which was launched in November 1997 comprised a series of conceptual papers addressing core themes in local government reform and sought to provide the basis for debate on several core

issues. These issues included cooperative government, developmental local government, the institutional and political form of local government, and the financial basis of local government. Important themes were established across these areas which were to become the watchdogs in the local government policy process, namely accountability, transparency, fiscal sustainability, and, integrated development.

(Green Paper on Local Government: 1997:v)

Thus it could be concluded that the Green Paper on local government set the scene for the launch of the White Paper on Local Government.

3.11 White Paper on Local Government

The White Paper on Local Government which was published in March 1998 amplified the basic structure of the Green Paper and established the framework for the legislative tasks facing Parliament and the Department of Provincial Affairs and the Constitutional Development (now the Department of Provincial and Local Government). For example, the White Paper explored the creation of the three categories of municipalities, namely (metropolitan, local and district councils) which eventually found expression in the Municipal Structures Act, 1998 (Act 117 of 1998). Similarly, the White Paper discussion on municipal finance noted the fact that the Constitution states that the national legislation may regulate the power of municipalities to impose property taxes. The Municipal Property Rates Act, 2004 (Act 6 of 2004) establishes such a framework. The White Paper also proposed the rationalization of the number of municipal councils, which was realized through the Municipal Demarcation Act, 1998 and the subsequent demarcation process that followed. It could thus be stated that the White Paper on Local Government is the foundation of local government legislation that followed subsequent to its publication.

3.12 Municipal Demarcation Act, 1998

In terms of section 155(3) of the Constitution of the Republic of South Africa, 1996 an independent authority must be created to determine municipal boundaries. As a result, the Municipal Demarcation Act, 1998 (Act 27 of 1998) provides for the establishment of the Municipal Demarcation Board. The said Act which was enacted in July 1998 defines the composition, membership and the activities of the Board. The Municipal Demarcation Board is established as an independent body which must be impartial and must perform its function without fear or prejudice. The main function of the Municipal Demarcation Board is to establish the municipal boundaries in accordance with the Constitution and other relevant legislation. The Municipal Demarcation Board is required by the Municipal Demarcation Act, 1998 to take into account a wide range of criteria in its determination of municipal boundaries. These criteria include; patterns of human settlement, existing and expected land use; employment; commuting and transport movements; facilities and administrative viability; areas of traditional authority.

The Municipal Demarcation Board is required to consult with the public in its determinations and provide for public comment regarding its decisions. The Municipal Demarcation Act, 1998 was amended by the Local Government Laws Amendment Act, 2002 (Act 51 of 2002). The amended Act provides, among others, alternative procedures to deal with the re-determination of municipal boundaries. Section 22(1) of the Amendment Act, 2002 in particular provides that the Demarcation Board may determine or re-determine the boundaries of municipalities: on its own initiative; on request by Minister for Provincial and Local Government or MEC for Local Government in a Province; or on request by a municipality with the concurrence of any other municipality affected by the proposed determination or re-determination. Section 22 of the Amendment Act, 2002 in essence reinforces co-operative governance in the operations of the Demarcation Board by allowing the members of the public to forward requests for determination or re-determination directly to the Demarcation Board. The Amendment Act, 2002 also reinforces intergovernmental relations among the municipalities by requiring that a request for

determination or re-determination from a municipality should have the concurrence of the municipality affected by the determination or re-determination; thereby encouraging the municipalities concerned to consult and engage each other.

One of the significant aspects of the Amendment Act, 2002 is the role of the Minister for Provincial and Local Government who may, in terms of section 22(2) of the Amendment Act, 2002 after consultation with MECs for local government and the Board, determine priorities and reasonable timeframes for a determination or re-determination. This arrangement, the author argues, amounts to the Minister being given the authority to direct the activities of the Board; and the author therefore submits that this arrangement impacts on the independence of the Board as envisaged in section 155 of the Constitution, 1996. The Minister may for instance set tight time-frames for the Board which do not allow for sufficient consultation with other stakeholders, which may negatively impact on intergovernmental relations and service delivery. The process of disestablishing cross-boundary municipalities as driven by the Ministry for Provincial and Local Government is a case in point; in that various communities (such as Khutsong in Gauteng and Matatiele in KwaZulu-Natal) protested about the lack of proper consultation in the process which led to the passing of the Constitution Twelfth Amendment Act, 2005; whose purpose is to re-determine the geographical areas of nine provinces of the Republic of South Africa.

3.13 Municipal Structures Act, 1998

The Municipal Structures Act, 1998 was enacted in December 1998 and provides for the establishment of municipalities, establishes the criteria for determining the category of municipality to be established, defines the types of municipalities, provides for the division of functions and powers among municipal types, regulates the structures and operation of municipalities and their office bearers, and provides for the electoral system of municipal government. The Municipal Structures Act, 1998 further calls for introduction of three main types of municipalities namely: Category A

metropolitan councils, Category B local councils, and Category C district councils. The Municipal Structures Act, 1998 establishes a range of types of executive authority models for a municipality. The Municipal Structures Act, 1998 further establishes the electoral system for all municipal types, which is essentially a combination of party list and ward candidates. Of particular importance, the Act calls upon all political parties to ensure that 50% of the candidates on their party list are women (David Pottie, in the South African Electoral Government Elections Website, History: 2003).

3.14 Municipal Elections of 2000

The 2000 elections took place on 5 December 2000. These elections differed substantially from both the 1999 national and provincial elections and the first democratic municipal elections held in 1995/1996. According to David Pottie (in the South African Local Government Elections Website, History: 2003), for the 2000 elections the Independent Electoral Commission established 15 002 voting stations countrywide which were open from 7am to 9pm for the 18 million registered voters to cast their ballots. According to the same website, a total of 79 political parties and 30 477 ward candidates were registered in the 284 newly established municipalities. The voter turnout was 48 percent.

4. HISTORICAL OVERVIEW ON THE ESTABLISHMENT OF THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY

4.1 Merged Municipalities

Subsequent to the local government elections of 5 December 2000, the City of Tshwane Metropolitan municipality came into being. The City of Tshwane Metropolitan Municipality was as a result of the merger of the following 14 local authorities namely (City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:20):

- The Greater Pretoria Metropolitan Council
- The City Council of Pretoria
- The Town Council of Centurion
- The Northern Metropolitan Substructure
- The Hammanskraal Local Area Committee
- The Eastern Gauteng Services Council
- The Pienaarsrivier Transitional Representative Council
- The Crocodile River Representative Council
- The Western Gauteng Services Council
- The Winterveld Transitional Representative Council
- The Temba Transitional Representative Council
- The Mabopane Transitional Representative Council
- The Garankuwa Transitional Representative Council
- The Eastern District Council.

4.2. Geographic Area of the City of Tshwane Metropolitan Municipality

The City of Tshwane Metropolitan Municipality covers an extensive municipal area that includes Pretoria, Centurion, Akasia and Soshanguve, as well as the surrounding areas of Mabopane, Atteridgeville, Garankuwa, Hammanskraal, Temba, Pienaarsrivier, Crocodile River, Winterveld and Mamelodi. This amounts to an area exceeding more than 3 200 km², inhabited by approximately 2,2 million

people. The geographical map of the City of Tshwane Metropolitan Municipality is attached as Annexure X at the back of the thesis.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:21)

4.3 The origin of the name "Tshwane"

Tshwane is named after Chief Tshwane. Tshwane is the authentic African name for the area which, according to legend, was used by the early inhabitants who lived in the proximity of the Apies River under the Chieftainship of Chief Tshwane. Chief Mushi, father of Chief Tshwane, had moved up from Zululand and settled in the area before the arrival of the Voortrekkers. As Pretoria developed into a town, the Batswana people, who were followers of Chief Tshwane, moved into the areas known as Sinoville, Bon Accord, Wallmannsthal and Hammanskraal. Chief Tshwane's descendants still reside in and around the Tshwane area. Another explanation for the name "Tshwane" is that black migrant workers derived it from the word "tshwana," which means "we are one/we are the same, because we live together."

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:2)

4.4. Government Structure of the City of Tshwane Metropolitan Municipality

The City of Tshwane Metropolitan Municipality comprises the Mayoral Executive System combined with a ward Participatory System. Out of the total of 152 councillors, 76 are proportional councillors and 76 are ward councillors. The first meeting of the newly established City of Tshwane Metropolitan Municipality took place on 12 December 2000 where the first Executive Mayor of the City of Tshwane Metropolitan Municipality was elected.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:21)

The Executive Mayor derives his functions and powers from the Municipal Council, as the legislative and executive authority of a municipality is vested in its Municipal Council in terms of section 151(2) of the Constitution of the Republic of South Africa, 1996. Thus the Executive Mayor has no original legislative and executive authority other than that which is delegated to him/her by the Municipal Council. Hence the Executive Mayor has to regularly report to the Municipal Council on decisions taken in the execution of his duties. However, there are limits to the functions that the Municipal Council may delegate. In terms of section 160(2) of the Constitution of the Republic of South Africa, 1996, the following functions may not be delegated: the passing by-laws; the approval of budgets; the imposition of rates and other taxes, levies and duties, and the raising of loans.

The Executive Mayor performs an executive role and reports to Council on all decisions taken. The functions and the powers of the Executive Mayor, as stipulated in the Local Government: Municipal Structures Act, 1998 are *inter alia* to identify the needs of the municipality and evaluate those needs in order of their priority. The Executive Mayor in line with the Municipal Structures Act, 1998 also makes recommendations to the Council regarding the strategies, programmes and services to address priority needs through the Integrated Development Plan and the estimation of revenue and expenditure, taking into account national and provincial development plans. Furthermore, the Executive Mayor *inter alia* has to review the performance of the municipality in order to improve the economy, effectiveness and efficiency of credit control and revenue, debt collection services, and the implementation of the municipal by-laws.

Thus it could be concluded that the role of the Executive Mayor is crucial in the operations of the municipality and is therefore a key role in the conduct and facilitation of intergovernmental relations in the municipality. As part of the Executive Mayor's responsibility, he also appoints the Mayoral Committee that has to assist him in the performance of his duties (Council Resolution, 13 March 2001). In terms of the aforesaid resolution, the various portfolios are as follows:

4.4.1 City Development and Environmental Management

4.4.2 Community Safety

4.4.3 Corporate Services

4.4.4 Economic Development

4.4.5 Electricity and Energy

4.4.6 Finance and Audit

4.4.7 Inner City Regeneration

4.4.8 Roads, Storm-water and Public Transport

4.4.9 Health and Social Development

4.4.10 Water and Sanitation.

Administratively, the Executive Mayor and the Mayoral Committee are supported by three divisions namely, Executive Support Services, International Relations, and Government Services. The main purpose of the Executive Support Services function is to ensure professionalism, accessibility and effectiveness of the Executive Mayor; to ensure effective interaction and co-ordination within the office of the Executive Mayor and to ensure that consultations within communities take place in order to maximize community participation in the transformation of the City of Tshwane Metropolitan Municipality.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:34)

The main purpose of the international relations section is to co-ordinate international and protocol activities in the office of the Executive Mayor and develop policies on international relations in consultation with the national Department of Foreign Affairs. The international relations section is also responsible for the co-ordination of

meetings between the office of the Executive Mayor and embassies, foreign missions and other international organizations. With regards to the governance service function, its main purpose is to provide an effective secretarial support service to the Mayoral Committee, the Executive Mayor and the Council. The governance services section is also responsible for the promotion and enhancement of intergovernmental relations between the office of the Executive Mayor and other spheres of government (City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:36-37).

In addition, the governance structure of the City of Tshwane Metropolitan Municipality consists of the office of the Speaker who is responsible for the establishment, and the management of ward committees. Through the ward committees, the office of the Speaker ensures the provision of accountable and democratic government to the communities within the City of Tshwane Metropolitan Municipality. (City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:36-38)

It could thus be concluded that the abovementioned structural arrangements enable the Executive Mayor to, *inter alia*, efficiently deliver on the political mandate and to also perform the functions and duties as envisaged in the relevant legislation and to facilitate intergovernmental relations with other municipalities and spheres of government.

4.5 Administrative Structure of the City of Tshwane Metropolitan Municipality

The administrative structure of the City of Tshwane Metropolitan Municipality consists of the office of the Municipal Manager, the office of the Chief Operating Officer and 10 line function Departments. These Departments are: Legal and Secretarial Services; Corporate Services; Finance; Marketing and Tourism; Social Development; Community Safety; Metropolitan Police; Economic Development; Housing and City Planning, and Service Delivery. The purpose of each of these departments is outlined briefly below, starting with the office of the Municipal Manager.

4.5.1 Office of the Municipal Manager

The office of the Municipal Manager strives to enhance the quality of life of all the residents by facilitating the provision of efficient and affordable services. All its activities are therefore performed within the framework of the Municipality's eight strategic focus areas. The office of the Municipal Manager's focus is *inter alia* to establish and develop an economical, effective, efficient, accountable and performance driven administration. The office of the Municipal Manager achieves this through ensuring the implementation of the Municipality's integrated development plan and the provision of advice to the Municipality's political structures.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:42)

In terms of section 55 of the Municipal Systems Act, 2000 (Act 32 of 2000) the Municipal Manager is the head of the administration and is, subject to the policy directions of the municipal council, responsible and accountable for the formation and development of an economical, effective, efficient and accountable administration. It could thus be concluded that the Office of the Municipal Manager plays a pivotal role in the facilitation of the intergovernmental relations through the implementation of the IDP as well as through the role played by the Municipal Manager as envisaged in terms of section 55 of the Municipal Systems Act, 2000.

4.5.2 Office of the Chief Operations Officer

The office of the Chief Operation Officer fulfils a high level support to the Municipal Manager. This support is achieved through *inter alia* facilitating the pro-active development of the City, creating an environment conducive to positive social and economic development and provision of motivational leadership. The office of the Chief Operating Officer is also responsible for the development and management of the Integrated Development Plan.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:44)

4.5.3 Legal and Secretarial Services Department

The Legal and Secretarial Services Department performs a range of professional services including giving legal advice, performing administrative, secretarial, logistical and corporate support services. The goals of this Department are *inter alia* to give legal advice that will ensure that all disciplines are informed of the proposed recommendations and their implications, deal with all contractual or delictual claims or on behalf of the municipality, deal with matters relating to labour law that affect the municipality and ensuring corporate governance compliance by the municipality.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:60)

The other goals of the Department are to maintain an asset register and provide legal advice in terms of the alienation and acquisition of immovable property, provide legal services regarding changes in land use-rights, manage legal and secretarial support personnel, and ensuring the accurate formulation of resolutions.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:63)

4.5.4 Corporate Services Department

The Corporate Services Department renders services that are aimed at achieving a high level of customer and employee satisfaction. In order to improve efficiency in general, the Department focuses on corporate administrative services; human resource management, information management and the establishment of a customer care culture in the City of Tshwane Metropolitan Municipality. The administrative services deal with the administration of the cross-boundary areas (before they were abolished by the Constitution Twelfth Amendment Act, 2005) and the provision of a comprehensive language services to other departments within the municipality. Furthermore, the administrative services are also responsible for ensuring the implementation of the procurement policy and the management of the municipality's immovable property.

With regards to the human resources, its focus is to assist the City of Tshwane Metropolitan Municipality to become an employer of choice in the local sphere of government. It aims to achieve this through the provision of an integrated human resources plan and the rendering of a professional support service to the municipality. The key performance areas for the human resource function are industrial relations, recruitment and selection, human resources management, human resource development, human resources administration, and occupational health safety.

With regards to information management, its aim is to establish an information infrastructure that will provide for affordable and accurate data, information and knowledge for the staff of the municipality, its customers and its business partners. The main objectives of information management are to provide affordable and effective interactive digital access to information for all the staff of the municipality, its customers, and business partners, achieve the rapid deployment of all investments and the availability of information infrastructure of 99 percent during business hours and 95 percent during after hours. Regarding customer care, its aim is to ensure that the municipality delivers reliable and excellent services to its customers at all times. The key objectives of customer care are to achieve improved customer satisfaction by building long-term loyalty and to improve business efficiency and performance by providing a reliable, responsive, competent, accessible, courteous, multi-optional, confidential and quality service.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:66-71)

4.5.5 Finance Department

The Finance Department manages the corporate financial affairs of the municipality and is responsible for the compilation of the annual municipal budget. The Department is also responsible for implementing and maintaining a control system to

ensure that accurate information about the municipality's financial position is available for proper decision-making. This Department aims to establish an effective corporate management system that will ensure the optimal attraction and utilization of financial resources in support of the corporate vision of the municipality. In terms of delivery, the Department delivers budget management and financial planning service, financial accounting and cash flow service, debtor management and credit control, salary and wage payments, creditor payments, insurance and risk management, as well as treasury management.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:72-76)

4.5.6 Marketing and Tourism Department

The Marketing and Tourism Department focuses on promoting the City of Tshwane as the ideal business and tourist destination. It aims to help the City of Tshwane achieve its vision by providing, managing, and maintaining acceptable marketing, communication and tourism infrastructure and services. Its key objectives are to promote an understanding of multi-cultural marketing, facilitate relationships with the public sector, creating an environment that enables tourism to flourish, and ensuring that local population benefits from tourism development within the City of Tshwane.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:77-81)

4.5.7 Social Development Department

The Social Development Department is dedicated to sustained community development through the provision of health and welfare services, cultural and recreational services, as well as the library and information services. It aims to achieve this by facilitating and providing an integrated system of social services, facilities and programmes to promote social development and the well being of the people of Tshwane. The objectives of the Department are to optimise the delivery of

quality health services to the community of Tshwane, provide sport, recreation, culture and library services that contribute to the social well-being of the people of Tshwane, and optimise the delivery of developmental welfare services in Tshwane (City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:82).

4.5.8 Community Safety Department

The Community Safety Department's purpose is to provide a focused community service that ensures safety orderliness and a healthy sustainable environment for the residents of Tshwane. It aims to make Tshwane the safest, internationally acclaimed African capital that empowers its community to develop and prosper. It aims to achieve this by ensuring, promoting and sustaining the safety of life, property and the environment.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:90)

4.5.9 Metropolitan Police Service Department

The City of Tshwane Metropolitan Police Service Department was established on 23 February 2002 as part of the effort to reduce crime and bring the policing services closer to the communities. The Department's vision is to eliminate the perceived and actual threats of crime and to improve the safety and security conditions of all the people of the City of Tshwane. The Department aims to achieve this vision through improving and promoting safety, security and orderliness throughout Tshwane, and by delivering metropolitan police services in partnership with other stakeholders. (City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:96)

4.5.10 Economic Development Department

The Economic Development Department's focus is to facilitate and implement integrated, multifaceted development programmes and projects that stimulate diverse economic development at strategic locations throughout the City of Tshwane. The Department aims to facilitate economic activity in the City of Tshwane by expanding globally competitive enterprises with a high demand for technology, skilled and semi-skilled labour. It also aims to enable the private sector to operate in a supportive environment with excellent links with the government, financial institutions, educational institutions, training, and research institutions.

(City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:101)

The Economic Development Department further aims to ensure that the residents of Tshwane share in the prosperity of an orderly developing city with an efficient transport system and ensure an economy that take cognisance of the dualism in the City of Tshwane by reducing poverty, unemployment and economic backlogs through stimulated economic growth and development (City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:101).

4.5.11 Housing, City Planning, Land and Environmental Planning Department

The vision of the Department is to develop an economically viable, attractive, efficient, and environmentally sustainable city with adequate housing for all. The Department aims to achieve this by working together with other Departments, senior levels of government and the community, ensuring a sustainable built and natural environment for the benefit of present and future generations, facilitating and assisting Tshwane residents to establish a reasonable standard of well-being and living, working with and through community partners to deliver a client driven system that supports people in becoming independent and self-sustaining, and enabling people in the organization to respond effectively to the needs of the clients. (City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:106)

4.5.12 Service Delivery Department

The Service Delivery Department is responsible for providing the City of Tshwane with affordable, efficient and cost-effective services in terms of water and sanitation, roads and storm-water, and electricity. It aims to achieve effective management and adequately maintained service delivery infrastructure and systems in line with the vision of the City of Tshwane to be a leading African capital that empowers its communities to prosper in a healthy and safe environment. (City of Tshwane Metropolitan Municipality's Annual Report, 2000/2002:114)

It could thus be concluded that all the departments in the City of Tshwane are structured in such a way that they support the Municipal Manager as the accounting officer and head of administration in performing the statutory duties in terms of section 155 of the Municipal System Act, 2000; and as such they all support the Municipal Manager in the facilitation of intergovernmental relations and the delivery of municipal services.

5. CONCLUSION

This chapter dealt with the introduction to the study as well as the statement of the research problem. It also dealt with the historical overview of the transformation of local government and the establishment of City of Tshwane Metropolitan Municipality. With regards to the transformation of local government, the impact of racial segregation on the development of local government was outlined from the introduction of apartheid (a policy of racial separate development) in 1948, especially with regards to financial constraints faced by black local authorities, in that apartheid regulations barred most retail and industrial development in Black areas which in turn led to a limited tax base for Black local authorities. The protest actions by Black communities against the apartheid local authorities were also discussed as well as

their contribution to the formation of the National Local Government Negotiation Forum.

The successes of the struggles of the communities against apartheid local government system were clearly outlined. These successes led *inter alia* to the holding of the first democratic local government elections in November 1995, the formation of the South African Local Government Association in November 1996, the publication of the Green Paper on Local Government in 1997, the publication of the White Paper on Local Government in 1998, the enactment of the Municipal Demarcation Act and the Municipal Structures Act in 1998, the enactment of the Municipal System Act in 2000 as well as the holding of the second democratic municipal elections on 05 December 2000. The period after 05 December 2000 second democratic municipal elections represents last phase of local government transformation and is the main focus of this study with a cut-off date of 30 June 2005.

With regards to the establishment of the City of Tshwane Metropolitan Municipality, 14 local authorities which merged to form the City of Tshwane Metropolitan Municipality were outlined. The geographical area of the City of Tshwane Metropolitan Municipality was described as well as the origin of the name “Tshwane.” The governance structure of City of Tshwane Metropolitan Municipality with specific reference to the office of the Executive Mayor, the Mayoral Committee and the office of the Speaker was also mentioned. Lastly, the administrative structure of the City of Tshwane Metropolitan Municipality was also described with specific reference to the role that is played by the offices of the Municipal Manager and the Chief Operating Officer as well as the 10 line function Departments in the administration of the City.

Having discussed the research problem, historical overview on the transformation of local government and the establishment of the City of Tshwane in this chapter, the next chapter will now look at the research methodology used in this study, including the description of various research methods.