MINUTES

ENERGY AND RESOURCE MANAGEMENT COMMITTEE

July 16, 2008

CALL TO ORDER: Chairman McNelly called the meeting to order at 7:40 a.m.

MEMBERS PRESENT: Committee Members Adamson, Avera, Brassett, Buck,

Lucero, McNelly, and Roberts

MEMBERS ABSENT: McCormack, Mitchell, and Twineham

PUBLIC PRESENT: None

STAFF PRESENT: Senior Planner Allen, and Clerical Support Norton

1. CALL TO ORDER

2. INTRODUCTIONS/ROLL CALL:

The Committee welcomed Chuck Buck newest member

3. APPROVAL OF MINUTES

ERMC Minutes of May 21, 2008 as amended ERMC Minutes of April 23, 2008 Study Session approved as written

4. ACTION ITEMS

a. Determine recommendation to City Council regarding the U.S. Mayor's Climate Protection Agreement

Allen – stated the City Attorney reviewed the Climate Agreement as a contract and looked at the elements that would be required for a document to be a contract and binding. They did not, for several reasons, feel that this was a contract therefore the City would not be bound contractually should we sign.

The argument could be made that the Mayors of the individual cities are each separate parties that are agreeing with each other to take affirmative steps to reduce pollution. Under this reading, there would be two or more parties to the agreement as required for a contract.

It is also possible that the Mayors of signature cities could be seen as constituting one party

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since the agreement refers to the signatories as U.S. Conference of Mayors. Under this reading the agreement fails to provide for a second contracting party and as a result the agreement would not fulfill the basic requirement of the contract that there must be parties capable of contracting. The City Attorney also looked at if consideration was given in terms of contracting. The current agreement states that there is no obligation to perform, but rather a commitment to strive toward certain objectives. The agreement therefore fails to supply the consideration required for a contract.

In addition, the agreement fails to provide other basic terms such as a timeline, measurable goals and remedies. In the absence of the essential terms, a court would likely find that the contract was unenforceable. The City Attorney concluded that signing the agreement would have no enforceable effect and the City would not be bound to do or not do any of the actions listed in the agreement.

The members had no further questions regarding the agreement. Senior Planner Allen suggested that the Committee affirm their previous motion to the City Council.

Given the results of the attorney's review Chairman McNelly stated that the Committee's motion to sign the Mayor's Climate Agreement made at the May 21st meeting still stands. The motion carried by a 5-3 vote. (Adamson, McCormack, McNelly, Mitchell, and Roberts) in favor; (Avera, Brassett, and Twineham) opposed; (Buck) sustained because he was not a member at the time of the May 21st meeting, (Lucero) absent.

5 DISCUSSION ITEMS

b. Drought declaration and impacts to the City of Fullerton

McNelly - said that since the last meeting in May the City of Fullerton went ahead and took the recommendations from this Committee as well as the Water Department to accept and amend the existing Emergency Water Supply Shortage Conservation Plan.

Since that time, both the governor of California and the Metropolitan Water District declared the state is in a drought. Water System Manager Schickling was expected to comment at today's meeting but because he was unavailable the Committee unanimously agreed to move the discussion of Item b) to the next meeting.

c) Review of AB 2175

McNelly noted that he has no new news as it relates to this bill. There is another bill in Congress that deals with the sewer system overflows and notification that would affect the City.

Roberts – asked whether anyone has information about a bill that would put recycling containers at all of the schools.

Allen – remembers reading about a contest that a group of Fullerton students entered. They won the contest for proposing a law about putting recycling containers at schools.

McNelly – If the law does pass, it would be a nice gesture for the Committee to recognize

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these students in some way for their achievement.

The Committee unanimously agreed to move Item c) to the next meeting.

d) Review of draft Green Pages

Allen – There will be four main topics this issue.

Information on water conservation; updated information on storm water; new regulations regarding sharps and their disposal which go into effect September 1, 2008; introduction of a new Green Box Program (boxes for battery and small electronics to be dropped off) located at most City facilities. The water section of the Green Pages will be blue to set it apart from the rest of the flyer.

Adamson – suggested the whole flyer be blue.

Allen – asked if several members could read and approve the contents before the next meeting. Members agreed that all should have the opportunity to read the draft.

McNelly – mentioned the No Drugs Down the Drain Campaign. There will be a big statewide campaign coming from the California Water Environment Association and the California Association of Sanitation Agency. The FOG Program must be kept in front of the people.

PUBLIC COMMENTS:

No public present

COMMITTEE/STAFF COMMENTS:

Newest member Chuck Buck expressed his support for the U.S. Mayor's Climate Protection Agreement. As a member of the public he attended many of the Subcommittee meetings and supports the action of the Committee to present the Agreement to the City Council.

ADJOURNMENT:

| With no further business the meeting was A | ADJOURNED AT | ⁷ 8.10 a.m. |
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Beverly Norton, Clerical Support