



NOTICE OF A SPECIAL MEETING
OF THE CITY COUNCIL OF THE
CITY OF FOUNTAIN VALLEY
May 3, 2022

In accordance with Section 54956 of the California Government Code, a Special Meeting of the City Council of the City of Fountain for the following:

AGENDA
SPECIAL ORDER OF BUSINESS
Tuesday, May 3, 2022
4:15 p.m.

Administrative Item (scheduled to begin at 4:15 p.m.)

1. Approve a Resolution Proclaiming the Existence of a Local Emergency Due to the Omni Metals HazMat Fire – Presentation by Colin Burns, Attorney for the City

LOCATION: 10200 Slater Avenue
City Council Chambers
Fountain Valley, CA 92708

Persons wishing to speak on the matter are requested to identify themselves by completing a blue speaker card indicating the item they want to address and to give the card to the city clerk prior to the public comment period.

Posting Affidavit

I, Rick Miller, City Clerk of the City of Fountain Valley, California do hereby certify under penalty of perjury under the laws of the State of California, that the foregoing notice of special meeting was hand delivered to each member of the Fountain Valley City Council; posted on the Posting Board at Fountain Valley City Hall; and placed the digital agenda on the city's website on May 2, 2022.



**CITY OF FOUNTAIN VALLEY
CITY COUNCIL
COUNCIL ACTION REQUEST**

To: Honorable Mayor and
Members of the City Council

Agenda Date: May 3, 2022

SUBJECT: Approve a Resolution Proclaiming the Existence of a Local Emergency Due to the Omni Metals HazMat Fire

EXECUTIVE SUMMARY:

The fire at Omni Metals, located at 11665 Coley River Circle, resulted in water runoff that included hazardous materials contained with sand on Coley River Circle. Staff asks the Council to adopt a Resolution Proclaiming a Local Emergency which will provide additional authority, liability protection, and availability of funding for the City to implement measures to remediate the hazardous materials.

OMNI METALS HAZMAT FIRE:

The fire at Omni Metals, located at 11665 Coley River Circle, occurred on April 20, 2022. As a result of fire extinguishment efforts, water runoff including hazardous materials was contained with sand on Coley River Circle.

Within hours of the fire, the third-party vendor began remediation of the spill. By April 22, 2022, approximately 48-hours after the incident occurred, all public areas along Newhope Street, the full length of Coley River Circle, and the storm drain facility extending to Euclid Street and Grace Avenue were declared safe for both public pedestrian and vehicular traffic by the Orange County Public Health Department and the third party clean up vendor.

Soil samples from the water valve risers and meters from Coley River where the hazardous materials incident occurred came back with high levels of cyanide and other heavy metals. The City will work with a third-party vendor to perform additional soil samples to isolate the extent of the soil contamination. The City will continue to monitor and conduct additional remediation as needed. The surface-level streets and public right of way remain safe for vehicle and pedestrian travel. There is no impact on potable water and storm drain water quality. Our potable water remains safe to drink.

Remediation of the cyanide and heavy metal exposure does involve handling of hazardous materials and potential of impacting public health. Therefore, Staff recommends that the Council declare a local emergency to authorize emergency

response measures and to provide additional liability protection to the City in its remediation efforts.

PROCLAMATION OF LOCAL EMERGENCY:

A local emergency is defined in the California Emergency Management Act as:

“The duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake... or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat...” California Government Code Section 8558(c).

When such emergency exists, the City Council may adopt a Proclamation of Local Emergency.

The Proclamation authorizes the undertaking of extraordinary police powers; provides limited immunity for emergency actions of public employees and governing bodies; authorizes the issuance of orders and regulations to protect life and property (e.g., curfews); and activates pre-established local emergency provisions such as special purchasing and contracting.

Local governments that adopt a Proclamation of Local Emergency should notify their Operational Area and provide a copy of the proclamation as soon as possible.

Staff will pursue reimbursement from Omni Metals, as well as federal and State reimbursement, for costs incurred where available.

ATTORNEY REVIEW:

The Attorney for the City prepared this staff report and resolution.

ALTERNATIVES:

Alternative No. 1: Approve a Resolution Proclaiming the Existence of a Local Emergency Due to the Omni Metals HazMat Fire.

Alternative No. 2: Do not Approve the Resolution.

RECOMMENDATION:

Staff recommends that the City Council approve Alternative No. 1: Approve a Resolution Proclaiming the Existence of a Local Emergency Due to the Omni Metals HazMat Fire.

Prepared by: Colin Burns, Attorney for the City

Approved by: Maggie Le, Deputy City Manager

Attachment 1: Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FOUNTAIN VALLEY PROCLAIMING THE EXISTENCE OF
A LOCAL EMERGENCY DUE TO THE “OMNI METALS
HAZMAT FIRE”**

WHEREAS, California Government Code Section 8630 and Fountain Valley Municipal Code Section 2.57.050 empowers the City Council to proclaim the existence of a local emergency to protect and preserve public welfare when the City is affected or likely to be affected by a public calamity; and

WHEREAS, the City Council finds that the Omni Metals HazMat Fire has resulted in the release of chemical substances that are, or may be, harmful when released into the environment; and

WHEREAS, the City Council finds that the need to contain and remediate the release of such chemicals requires immediate and coordinated emergency response action; and

WHEREAS, a declaration of local emergency will assist in a coordinated public health response to remediate and mitigate the effects of the release of chemicals to the environment; and

WHEREAS, the conditions and circumstances described above warrant and necessitate that the City Council proclaim the existence of a local emergency; and

WHEREAS, the City Council desires to proclaim a local emergency and to authorize all powers associated therewith including, but not limited to, the powers granted the Director of Emergency Services under the California Emergency Services Act and Chapter 2.57 of the Fountain Valley Municipal Code.

NOW, THEREFORE, the City Council of the City of Fountain Valley hereby **RESOLVES**:

Section 1. Pursuant to California Government Code Section 8630 and Fountain Valley Municipal Code Section 2.57.050, the City Council hereby finds and proclaims the existence of a local emergency as defined by California Government Code Section 8558(c) exists, caused by the Omni Metals HazMat Fire which, if not corrected, constitutes a threaten to health and safety of persons within the territorial limits of the City.

Section 2. The City Council shall review, within the time required by law, the need for continuing the local emergency until such time that the local emergency is terminated.

Section 3. The Director of Emergency Services, under Fountain Valley Municipal Code Section 2.57.050, is hereby designated as the authorized representative of the City of Fountain Valley for purposes of receipt, processing, and coordination of all inquiries and requirements necessary to obtain such private, state and federal assistance as may be available.

Section 4. The Director of Emergency Services is authorized to exercise all powers of said position as described in the California Emergency Services Act and Chapter 2.57 of the Fountain Valley Municipal Code.

Section 5. The Director of Emergency Services is authorized to furnish information, enter into agreements, contract for and obligate the City to pay amounts reasonably necessary to mitigate the local emergency, and take all actions necessary to obtain emergency assistance to implement preventative measures to protect and preserve the public health of the City from said public health hazard within the scope of the local emergency hereby declared.

Section 6. The Fountain Valley City Clerk shall certify to the passage of this Resolution. This Resolution shall take effect immediately upon its adoption by the City Council.

Section 7. The City Clerk shall forward a copy of this Resolution to the Orange County Operational Area.

Passed, approved, resolved, and adopted at a regular City Council meeting this 3rd day of May 2022 by the following vote:

Mayor Harper:
Mayor Pro Tempore Constantine:
Council Member Bui:
Council Member Grandis:
Council Member Vo:

ATTEST:

City Clerk, Rick Miller

Mayor, Patrick Harper

APPROVED AS TO FORM:



Colin Burns
Attorneys for the City