

File No. 220772

Committee Item No. \_\_\_\_\_

Board Item No. 53

# COMMITTEE/BOARD OF SUPERVISORS

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Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: July 12, 2022

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Prepared by: Brittney Harrell

Date: July 6, 2022

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Urging a Coordinated Response to PCE Contamination on the Irving Street Corridor]

2

3 **Resolution urging the California Department of Toxic Substances Control, San**  
4 **Francisco Department of Public Health, and other agencies to provide a**  
5 **comprehensive, coordinated response to tetrachloroethylene (PCE) contamination in**  
6 **the vicinity of the 2500 Irving Street block to ensure protections for occupants of**  
7 **neighboring homes and establishments.**

8

9 WHEREAS, Urban redevelopment provides an opportunity to uncover sources of  
10 legacy contamination on properties with former commercial and industrial uses, where  
11 projects proposed for housing development and existing housing directly adjacent to sites  
12 must meet more stringent requirements for human habitation; and

13 WHEREAS, Contamination on the 2500 block of Irving Street of San Francisco have  
14 triggered investigations based on historical uses from past businesses, primarily two dry  
15 cleaning operations, namely Miracle Cleaners at 2520 Irving Street (north side) from the  
16 1920s into the 1950s, and Albrite Cleaners at 2511 Irving (south side) from the 1940s until  
17 2018, as well as potentially other yet undetermined sources of contamination; and

18 WHEREAS, The primary contaminant, identified from soil vapor and indoor air  
19 sampling, is identified as tetrachloroethylene, also known as perchloroethylene (PCE), a  
20 Volatile Organic Compound (VOC) commonly used in dry cleaning operations, and as a  
21 legacy contaminant PCE can migrate long distances from the source in its vapor phase, and  
22 is classified as a likely carcinogen by the U.S. Environmental Protection Agency; and

23 WHEREAS, Housing and mixed-use developments on this commercial corridor will  
24 provide needed housing in the City, including the affordable housing development sponsored  
25 by nonprofit developer Tenderloin Neighborhood Development Corporation (TNDC), and

1 another market rate development proposed by The Police Credit Union at 2525 Irving Street,  
2 on or adjacent to the locations of these former dry cleaners; and

3 WHEREAS, Multifamily housing projects meeting the criteria in California Senate Bill  
4 35 are approved ministerially, without Planning Commission approval and bypassing the  
5 CEQA environmental review process, and TNDC's 100% affordable housing project at 2550  
6 Irving Street was streamlined via this state legislation, limiting the ability of the City to assert  
7 environmental review subject to public scrutiny as a condition of approval; and

8 WHEREAS, Environmental testing has been conducted at multiple locations and times  
9 confirming PCE as the primary contaminant in this area possibly coming from multiple  
10 sources, further testing is needed to address multiple data gaps, and the State regulatory  
11 framework is a patchwork of voluntary agreements and mandatory orders with fragmented  
12 regulatory oversight for addressing this legacy pollutant; and

13 WHEREAS, Private entities have conducted tests at their own sites: The Police Credit  
14 Union performed initial testing in 2019 and 2020 as owner at the time of 2550 Irving Street,  
15 also current owner of 2525 Irving Street, finding PCE levels in soil gas and inside The Police  
16 Credit Union building with samples above applicable screening levels, and TNDC conducted  
17 an Environmental Site Assessment in September 2020, identifying PCE as the principal  
18 chemical detected in soil gas, with associated risks of vapor intrusion into ground level and  
19 first floor of the proposed building deemed as "modest" in the Final Response Plan prepared  
20 for TNDC in September 2021; and

21 WHEREAS, The California Department of Toxic Substances Control (DTSC) has  
22 provided regulatory oversight in these assessments, and only after public and independent  
23 expert comment has stepped in, using taxpayer funds, to perform air testing inside six single  
24 family homes near the former Miracle Cleaners site that should have been conducted and  
25

1 paid for by The Police Credit Union, with one more round of testing scheduled by DTSC for  
2 assessing seasonal variability; and

3 WHEREAS, The regulatory framework for these properties is fragmented, with varying  
4 levels of responsibility for cleanup by the parties associated with the legacy contaminants that  
5 are present in the high-permeability dune sands and known to be intruding into the air space  
6 of building structures above DTSC's screening level which is known to be used as an action  
7 level for remediation and/or mitigation at other State cleanup sites; and

8 WHEREAS, The Police Credit Union ended its voluntary agreement with DTSC in  
9 January 2022, after the sale of the 2550 Irving Street property was completed and transferred  
10 to TNDC and failed to complete adequate investigation by not sampling the former Miracle  
11 Cleaners location and not conducting step-out sampling into residential areas recommended  
12 by its own consultant; and

13 WHEREAS, TNDC as the current owner and nonprofit developer of 2550 Irving Street  
14 is under a California Land Reuse and Revitalization Act agreement with DTSC gives them  
15 statutory immunity without obligation to clean up contaminants beyond their development site;  
16 and

17 WHEREAS, DTSC has issued an order under California Health & Safety Code, Section  
18 25358.3(a) holding the owners of the former Albrite Cleaners responsible for investigation and  
19 cleanup and thus placing the property on the State's Cortese List of contaminated sites; and

20 WHEREAS, San Francisco's Maher Ordinance, under Health Code, Article 22A, is  
21 designed to ensure that hazardous substances impacting soils and groundwater in specified  
22 areas of the City are assessed and mitigated prior to the issuance of a building permit, and  
23 the 2550 Irving Street development is under the Maher Program, however, the San Francisco  
24 Department of Public Health (SFDPH) has deferred oversight and cleanup authority to DTSC  
25 for the various properties, agreements and orders; and

1           WHEREAS, The September 2021, Final Response Plan from TNDC evaluated three  
2 alternatives for their planned development at 2550 Irving Street: (1) “No Further Action,” (2)  
3 “Soil Excavation,” and (3) “Vapor Intrusion Mitigation System (VIMS), a Land Use Covenant  
4 (LUC), and Operations and Maintenance (O&M),” recommending the VIMS, LUC and O&M  
5 alternative as most effective overall and lower in cost which involves no actual cleanup and is  
6 subject to failure if the O&M component is not conducted; and

7           WHEREAS, Community advocates prepared an August 2021 Response Plan  
8 Addendum calling for a fourth alternative of soil vapor extraction (SVE) which is (1) an actual  
9 PCE removal technology with the ability to reach beneath the adjacent residential areas, (2) a  
10 technology recommended by DTSC guidance for PCE and VOC remediation and (3) lower in  
11 cost relative to the VIMS, LUC and O&M alternative and is supported by DTSC SVE  
12 contractor estimates; now, therefore, be it

13           RESOLVED, That the Board of Supervisors strongly urges that DTSC, in coordination  
14 with SFDPH, manage this situation with a comprehensive, coordinated investigation and  
15 cleanup approach for the PCE contamination on the 2500 Irving Street block based upon the  
16 State’s preference for permanent remedies, while utilizing the State’s enforcement authority to  
17 hold responsible parties accountable for the contamination, in order to protect the health of  
18 future building occupants and long-time residents now known to have been exposed to PCE  
19 for decades as well as maintain and enhance the value of the neighborhood’s century-old  
20 homes, new housing, businesses, nonprofit establishments, and the right-of-way areas; and,  
21 be it

22           FURTHER RESOLVED, That the Board of Supervisors strongly urges the Planning  
23 Department to take all steps necessary to ensure that construction at any property impacted  
24 by the 2500 Irving PCE soil gas plume is performed only after a Response Plan is in place to  
25 remediate the contamination and to prevent the exposure of nearby residents to PCE vapors

1 intruding into their homes above DTSC’s own residential screening level of 0.46 ug/m<sup>3</sup> that is  
2 known to be an action level at other cleanup projects with State oversight; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors strongly urges SFDPH to  
4 provide robust oversight through the Maher Program requirements for a Site Mitigation Plan  
5 for 2550 Irving Street project and other future redevelopment projects impacted by PCE and  
6 to coordinate with DTSC, San Francisco Planning Department, San Francisco Department of  
7 Building Inspections, San Francisco Department of Public Works, and other agencies  
8 engaged in permitting and oversight of housing redevelopment projects to ensure that the  
9 health of San Franciscans be protected at the most protective end of the State’s “risk  
10 management range” which is done at other State cleanup projects and is within DTSC’s  
11 authority to do so.

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# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor  inquiries"
- 5. City Attorney Request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only