

RESOLUTION NO. 13 (SAS) Oversight Board

A RESOLUTION OF THE SANTA MONICA SUCCESSOR AGENCY OVERSIGHT BOARD RATIFYING THE FORMER REDEVELOPMENT AGENCY'S TRANSFER OF OWNERSHIP OF CERTAIN REAL PROPERTY ASSETS THAT WERE CONSTRUCTED AND USED FOR A GOVERNMENTAL PURPOSE TO THE CITY PURSUANT TO EXISTING AGREEMENTS RELATING TO THE CONSTRUCTION OR USE OF SUCH ASSETS.

RECITALS:

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) (the "Redevelopment Law"), the City Council of the City of Santa Monica (the "Council") adopted the Earthquake Recovery Redevelopment Project by Ordinance No. 1747 (CCS) on June 21, 1994, the Downtown Redevelopment Project by Ordinance No. 1021 (CCS) on January 13, 1976, the Ocean Park 1A Project by Ordinance No. 497 (CCS) on June 30, 1960, and the Ocean Park 1B Project by Ordinance No. 516 (CCS) on January 24, 1961 (collectively the "Redevelopment Plans"); and

WHEREAS, the California Legislature adopted, and the Governor signed, Assembly Bill Nos. 26 and 27 (2011-2012 1st Ex. Sess.) enacted as Stats. 2011, 1st Ex. Sess. 2011-2012, chs. 5-6 (hereinafter AB1x 26 and AB1x 27) into law; and

WHEREAS, in July 2011, *California Redevelopment Agency v. Matosantos* was filed in the California Supreme Court, challenging the constitutionality of AB1x 26 and AB1x 27, and on December 29, 2011, the Supreme Court issued its opinion in *Matosantos*, upholding AB1x 26 and exercising its power of reformation to revise and extend each effective date or deadline for performance of an obligation in part 1.85 of division 24 of the Redevelopment Law, and

invalidating AB1x 27; and

WHEREAS, effective on February 1, 2012, the City of Santa Monica ("City") became the designated Successor Agency of the Redevelopment Agency of the City of Santa Monica, within the meaning of AB1x 26; and

WHEREAS, after January 1, 2011, but prior to the enactment of AB1x 26, the former Redevelopment Agency of the City of Santa Monica ("RDA") transferred certain real property assets ("Real Property Assets") to the City in accordance with authorizing provisions of the Redevelopment Law; and

WHEREAS, a description of these Real Property Assets along with a description of the construction and use of these assets for a governmental purpose in accordance with existing agreements relating to the construction or use of such assets is included in the staff report attached hereto as Exhibit "A" (hereinafter referenced as "Staff Report") and incorporated herein by this reference; and

WHEREAS, the existing agreements referenced in the Staff Report have been made available to the Oversight Board for review; and

WHEREAS, the Oversight Board has reviewed the information presented in the Staff Report and considered any oral presentations made, if any, at the public meeting of the Oversight Board on May 8, 2013; and

WHEREAS, based upon the record before it, including the Staff Report, the existing agreements referenced in the Staff Report, and the oral presentations, if any, made at the public meeting of the Oversight Board on May 8, 2013, the Oversight Board finds and determines that the RDA's transfer of the Real Property Assets to the City was proper under applicable law and that those Real Property Assets were constructed and used for a governmental purpose pursuant to existing agreements relating to the construction or use of such assets, in accordance with Health and Safety Code Section 34181(a); and

WHEREAS, in accordance with Health and Safety Code section 34181(f), at least 10 days' notice to the public of the specific proposed actions to be considered by the Oversight

Board at the May 8, 2013 meeting was made by publication in the Santa Monica Daily Press on April 26, 2013, attached as Exhibit "B";

NOW, THEREFORE, THE OVERSIGHT BOARD DOES RESOLVE AS FOLLOWS:

SECTION 1. The Oversight Board hereby finds and determines that the foregoing recitals are true and correct.

SECTION 2. The Oversight Board hereby ratifies the transfer of the Real Property Assets referenced in the Staff Report to the City as proper under applicable law and as assets constructed and used for a governmental purpose pursuant to existing agreements relating to the construction or use of such assets pursuant to Health and Safety Code Section 34181(a).

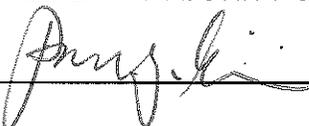
SECTION 3. The staff of the Successor Agency is hereby directed to transmit this Resolution to the Department of Finance on behalf of the Oversight Board, in accordance with Health and Safety Code section 34179(h).

SECTION 4. The Oversight Board authorizes the Successor Agency's Chief Administrative Officer or his designee to take such actions and execute such documents as are necessary or appropriate to effectuate the intent of this Resolution on behalf of the Oversight Board and any such actions previously taken are hereby ratified.

SECTION 5. The Secretary of the Oversight Board shall certify the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect in accordance with applicable law.

SECTION 6. Nothing herein is intended to waive any constitutional, statutory, legal, or equitable rights of the Oversight Board, Successor Agency, City of Santa Monica, or any third parties with interests in and to any of the Real Property Assets referenced in the Staff Report.

APPROVED BY A MAJORITY OF THE TOTAL MEMBERSHIP OF THE OVERSIGHT BOARD:


_____ CHAIR OF THE OVERSIGHT BOARD

Santa Monica Redevelopment Successor Agency Oversight Board

Memorandum

Date: April 22, 2013
To: Oversight Board
From: Successor Agency staff
Subject: Government-Purpose Assets

Recommendation

Staff recommends that the Oversight Board adopt a resolution ratifying the transfer of ownership of certain real property assets to the City of Santa Monica that were constructed and used for a governmental purpose pursuant to existing restrictions and agreements relating to the construction and use of such assets, in accordance with Health and Safety Code section 34181(a).

Statutory Background

The AB1x 26 and AB 1484 redevelopment dissolution statutes require any successor agency that has been issued a finding of completion by the Department of Finance (DOF) to transfer real property assets in the custody of the Successor Agency into a Community Redevelopment Property Trust Tax Fund upon approval by the DOF of a long-range property management plan, unless the assets are subject to the requirements of any existing enforceable obligation (Health and Safety Code section 34191.4(a)). A finding of completion can only be obtained from the DOF once the Successor Agency has paid all cash assets demanded by the DOF, following due diligence reviews (DDR) conducted by the DOF for a sweep of housing cash assets and non-housing cash assets. (Health and Safety Code section 34179.7).

On January 31, 2013, the City and Successor Agency filed a Petition for Writ of Mandate and Complaint for Injunctive Relief against the DOF and other parties, contesting the DOF's demands for housing cash assets following the housing DDR process. The Successor Agency is also contesting the DOF's demand for non-housing cash assets and has initiated the meet and confer process with the DOF. Consequently, it may be several months before the Successor Agency obtains a finding of completion from the DOF.

While the redevelopment dissolution statutes prohibit real property transfers by the Successor Agency until a finding of completion is obtained by the DOF, there is a specific exemption for the transfer of government purpose assets. In essence, Health and Safety Code sections 34181(a) and 34191.3 authorize the Oversight Board to direct the Successor Agency's transfer of "government purpose" assets to a public entity before a finding of completion is obtained. Government purpose assets are those assets that were constructed and used for a governmental purpose pursuant to any existing agreements relating to the construction or use of that asset. (Health and Safety Code section 34181(a).

State Controller Audit

On a different track, the dissolution statutes provide for a separate audit by the State Controller of asset transfers occurring after January 1, 2011 between the City's former Redevelopment Agency (RDA) and the City. (Health and Safety Code section 34167.5) Assets transferred during this period must be transferred back to the Successor Agency unless the asset is contractually committed to a third party for expenditure or encumbrance. The State Controller has made public statements that the exemption will apply if the third party commitment is made prior to the effective date of AB1x 26. The State Controller has also said that he intends to complete all audits before January 2014.

While the State Controller has not yet requested an audit of the former RDA's asset transfers, the State Controller has been actively auditing other successor agencies within the State. In some cases, the State Controller has asserted that all asset transfers must be ratified by the Oversight Board, even if they occurred before AB1x 26 went into effect. While the Successor Agency does not agree with this requirement as a matter of law, the Successor Agency has determined that it would be more productive to follow the State Controller's policies to facilitate successful completion of the State Controller's audit.

Oversight Board Review of All Government Purpose Assets

In light of the fact that the Successor Agency is not likely to receive a finding of completion in the immediate future and given the potential timing of the State Controller's future audit, the Successor Agency is seeking the Oversight Board's review of all transfers of government purpose assets from the former RDA to the City that occurred after January 2011. While many of these assets were subject to third party commitments prior to the effective date of AB1x 26 (and in most cases prior to January 2011), in the interests of full disclosure, the Successor Agency is including these properties for the Oversight Board's review. However, wherever applicable, the

Successor Agency has identified pre-existing commitments and agreements that support both the statutory exemptions as well as government purpose designations.

Description of Public Properties, Agreements, and Restrictions

The real property assets that are now subject to the Oversight Board's review consist of public improvements that were transferred by the RDA to the City after January 1, 2011 but prior to the effective date of AB1x 26. These assets fall into three categories: the Downtown parking structures (Parking Structures 1-8), the Ocean Park Project Area parks and public right of way improvements, and the Civic Center Project Area parks and right of way improvements. All of these assets have been maintained and operated by the City using the City's general funds.

Downtown Parking Structures

Properties: 1234 Fourth Street (Parking Structure 1), 1235 Second Street (Parking Structure 2), 1318/1320 Fourth Street (Parking Structure 3), 1321 Second Street (Parking Structure 4), 1440 Fourth Street (Parking Structure 5), and 1431 Second Street (Parking Structure 6.)

Governing Agreements: [Code of Federal Regulations](#) regarding 1966 Parking Revenue Bonds, [1986 Certificates of Participation Official Statement](#), [1992 Lease Revenue Bonds Official Statement](#), [2002 Lease Revenue Bonds Refunding Official Statement](#), [2002 Lease Agreement](#), [Off-Site Parking Easement and Permit Agreement](#) (July 28, 2010), Third Street Mall and Downtown Assessment District [Ordinance 1377](#) (July 8, 1986) and [Resolution 7255](#) (July 15, 1986), [BNY Western Trust Company Assignment Agreement](#) (May 1, 2002), [Wilshire West Company Parking Lease](#) (April 23, 1968), [Telekew Productions Agreement for Sublease and Construction, Operations and Maintenance of Parking Facilities](#) (September 11, 1979), [Coastal Development Permit 5-11-140 for Parking Structure 6](#), [Downtown Santa Monica, Inc. Services Agreement Contract No. 9088](#) (April 22, 2010), [Morley Contract No. 9212 for Parking Structure 6](#) reconstruction and [Parking Structure 6 Lease Revenue Bonds Official Statement](#).

Governing Restrictions: [Bayside District Specific Plan](#), [Coastal Development Permit on Parking Structure 6](#), [Zoning Ordinance No. 2417](#) and [Conditional Use Permit on Parking Structure 6](#).

Parking Structure Financing:

The six public parking structures were constructed on six City-owned public surface parking lots designed to serve the Santa Monica's downtown commercial core. The concept, which became known in planning circles as "Park Once," involved creating

parking structures located throughout the district that allow visitors and workers in the district to park one time and conduct a variety of different activities without moving their cars, including going to the office, shopping at multiple destinations, dining, and attending cultural events and entertainment. The park once concept was contrary to the primary planning concept of the post-war era, which typically involved single-use buildings with dedicated parking lots. Whereas downtown Santa Monica offered an opportunity to go to work, see a movie, have dinner, and buy a new outfit while parking one time, most of the development in the United States at the time would have required three or four separate auto trips to accomplish these tasks. The centralized parking system has enabled Santa Monica's downtown to thrive with a much lower parking count than is provided for similar amounts of development in more suburban settings. Santa Monica's park once concept became a model of downtown revitalization efforts throughout the country.

Before the parking structures were built, downtown property owners understood that centralized parking would be necessary to support the growth and development of the area. Accessible and affordable parking was critical to allow downtown to stay competitive with suburban shopping environments. Construction of the parking structures occurred on City-owned properties. As explained in the [Code of Federal Regulations](#), the construction of the public parking structures were financed through lease revenue bonds issued by the City's Parking Authority during the 1960s. The financing structure for these bonds was based upon a lease agreement between the Parking Authority (as owner) and the City (as lessee) and a pledge of the City's lease revenues to pay the debt service on the bonds. The lease also contemplated that upon payment of the bonds, the lease would terminate and the structures would revert to City ownership. Parking meter revenues and downtown property assessments were also used to pay debt service on these bonds.

Following a period of declining economic activity in the downtown in the 1970s and 1980s, downtown property owners supported the creation of a new assessment district to support public improvements and parking enhancements in the area. The Third Street Mall and Downtown Assessment District [Ordinance 1377](#) (July 8, 1986) and [Resolution 7255](#) (July 15, 1986), was established in 1986 and provided assessment funding for public improvements that created the Third Street Promenade and an expansion of Parking Structure 5. The establishment of the Assessment District included a parking in-lieu fee program whereby new development could forgo building some or all its required parking by paying annual fees to a central fund maintained by the City to support continued parking development in the district. Currently, 44 properties pay fees annually into the parking development fund, with fees of up to \$39,000 per year per property. Parking in-lieu fees are currently being used to pay for a portion of the reconstruction of Parking Structure 6, which is currently underway.

The 1986 expansion of the parking structures was financed by Parking Authority lease revenue bonds backed by both City lease revenues and property assessments. The lease revenue was based upon a lease agreement between the City of Santa Monica and the Santa Monica Parking Authority. When the lease revenue bonds were refinanced in 1992 and subsequently in 2002, the City and Parking Authority entered into a new [Lease Agreement](#) which includes a provision (Section 8) whereby the Parking Authority transfers title to the leased parking structures to the City once the lease revenue bonds have been paid off. As part of the 2002 refinancing, the parking structures are also governed by an [Agreement with BNY Western Trust Company](#) as bond trustee that all rental payments from the City to the Parking Authority for Parking Structures 1, 2, and 3 are to be made available to the trustee to make debt service payments.

Parking Structure 6 is currently being reconstructed by the City of Santa Monica. The reconstruction is being funded by a combination of City funds and in-lieu fees paid by district property owners. As is the case with the other parking structures, none of the funding for the reconstruction is coming from the Redevelopment Agency (RDA). In 2011, the City issued [Lease Revenue Bonds](#) which restrict the use of this parking structure to public parking. The reconstruction of the parking structure is also governed by [Coastal Development Permit 5-11-140](#) and [Conditional Use Permit 11-002](#).

The former RDA did not become involved with the six structures until 2002, in order to further the seismic safety goals of the Earthquake Recovery Redevelopment Project Area, which was adopted in 1994. As the structures were constructed in the 1960s, addressing their seismic deficiencies became a top priority, particularly given that thousands of downtown employees and visitors use the parking structures each day. As a result, the RDA purchased the parking structures from the Santa Monica Parking Authority in 2002, subject to the existing lease financing arrangements with the City, with the intention of completing seismic reconstruction or retrofitting of the garages, as well as the creation of additional interim parking supply that could allow parking structures to closed for retrofitting or reconstruction. Before the RDA was dissolved, it had funded seismic retrofitting of Parking Structures 2, 4, and 5. In addition, RDA funds that were obligated for the purchase of the parking garages were used to back the bonds that built the Civic Center Parking Structure. The Civic Center Parking Structure continues to serve as replacement parking while other parking structures are retrofitted or reconstructed. (As the Oversight Board knows, the DOF has denied the continued payment of the RDA note that purchased the parking structures. As a result, the City's general fund now must make payment on the Civic Center Parking Structure bonds.)

During its implementation of AB1x 26 and AB 1484, the DOF determined that the purchase and sale documents for the RDA's purchase of the parking structures are not enforceable obligations. Consequently, the DOF has disallowed any continuing

payments to the Parking Authority for the former RDA's purchase of these structures and the RDA's purchase of the parking structures has been effectively nullified. However, even if the RDA's purchase had not been nullified, the RDA's interest in the parking structures, as successor to the Parking Authority's interest, would have terminated nonetheless in 2016 pursuant to the 2002 lease revenue bonds and financing documents. This point was recently acknowledged by the DOF in its review of Parking Structures 7 and 8.

The Santa Barbara Successor Agency recently completed a similar review process with the DOF (see "[A Big Whew](#)" article). In September 2012, the Santa Barbara Oversight Board adopted a resolution declaring ten public parking structures and lots, several properties near the Santa Barbara railroad depot, a public park, a water treatment facility, and properties where a children's park was planned. On [November 16, 2012](#), the DOF sent a letter objecting to the oversight board action with respect to the public parking lots, the railroad depot properties, and the planned children's park. Santa Barbara requested and was granted an opportunity to meet and confer with the DOF. As a result of the meet and confer, on [January 22, 2013](#), the DOF issued a revised determination, finding that the public parking lots and structures should be maintained as governmental purpose and are eligible for transfer to the City of Santa Barbara. The DOF letter states that they made the determination because of Santa Barbara's parking and business improvement area assessment, which mirrors the situation for the downtown parking structures.

A key element in considering the designation of the public parking structures as government-purpose assets, and what aligns directly with the DOF's determination regarding Santa Barbara's parking structures, is that the former RDA did not pay for the land upon which the parking structures sit or for the construction of the parking structures. In fact, because Santa Barbara used tax increment in combination with assessments to fund the structures, Santa Monica's facts in this regard are superior.

Special Agreements: In addition to the overall financing of the Downtown parking structures, there are several discrete agreements that relate to all or specific parking structures.

Parking Structures 1, 2, 3, 4, 5 and 6 are governed by an [Off-Site Parking Easement and Permit Agreement](#) with the owners of Santa Monica Place that provides for access to additional parking in the structures in the event that the primary and ancillary parking for Santa Monica Place is full.

Parking Structure 2 is governed by a [Parking Lease Agreement](#) from 1968 that allows the office building at 100 Wilshire to lease up to 155 parking spaces, with options that extend the lease through 2041.

Parking Structure 4 is governed by the [Telekew Productions Agreement](#) from 1979 whereby the owners of the office building at 1299 Ocean Avenue paid to construct 304 additional spaces on the parking structure in exchange for the right to lease 204 spaces. The agreement extends through 2031.

Maintenance of the parking structures is provided pursuant to a [Services Agreement with Downtown Santa Monica, Inc.](#) (DTSM). DTSM is a private, non-profit corporation that is funded by property-based assessments. Parking structure maintenance services provided by DTSM include sweeping, scrubbing, cleaning of restrooms and stairwells, and removal of graffiti and trash.

Governing Restrictions: In addition to the parking structure financing agreements and special agreements, the parking structures are governed by regulatory restrictions, as discussed below.

The area bounded by Wilshire, Fourth Court, Broadway and Second Court is governed by the [Bayside District Specific Plan](#). Any proposed development within the area must comply with the Specific Plan. The six sites upon which the parking structures sit are specially called out for city parking structures in the Specific Plan.

[The Zoning Ordinance \(See page 22\)](#) includes a provision that any demolition of parking spaces within public parking structures within the district must be replaced within the district.

All six structures are located with the Coastal Zone. The California Coastal Commission has asserted its jurisdiction to approve all parking rate adjustments within the zone. The City of Santa Monica seeks Coastal Commission approval before changing parking rates for the six parking structures.

Santa Monica Place Parking Structures

On April 1, 2013, the Department of Finance [provided written notice](#) that the transfer of Parking Structures 7 and 8 (adjacent to Santa Monica Place) to the City is authorized because the lease agreement between the City and the RDA associated with lease revenue bonds financed provided for transfer of the parking structures to the City once the bonds were fully paid off (which occurred in 2008.)

Ocean Park Project Area Parks and Public Right of Way Improvements

Properties: 2701 Barnard Way, 3275 Barnard Way, 3285 Barnard Way, 3358 Barnard Way, 2918 Barnard Way, 110 Pier Avenue

Governing Agreements: [Coastal Development Permit A-318-76](#) (March 2, 1977) and [Agreement with Lincoln Property Company](#) (December 17, 1975).

Governing Restrictions: [Coastal Development Permit A-318-76](#) and [Ocean Park Zoning Districting Map](#).

Overview of Parks and Public Right of Way Improvements: As part of the development of the Ocean Park Redevelopment Project Area, a primarily residential development which occurred within the oceanfront area of the Ocean Park neighborhood during the 1970s and 1980s, the RDA dedicated land for and constructed public parks, streets, landscaped parkways, sidewalks and bike paths. The parks and public improvements were required as part of the [Coastal Development Permit](#) approved by the California Coastal Commission and executed by the Commission and the RDA. Since they were built, the parks and public improvements have been maintained by the City of Santa Monica, though title to the properties was in the name of the RDA until 2011. The City's Zoning Districting Map, Coastal Development Plan, and right-of-way maps reflect the use of the properties as parks and public improvements. The parks and public improvements cannot be used for any other purpose and no government agency other than the City would be likely to assume the operating costs and liabilities associated with the parks and public improvements.

Civic Center Parks and Public Right of Way Improvements

Properties: 1700 Main Street, 1673 Ocean Avenue, 1665 Ocean Avenue, 1677 Ocean Avenue, 1683 Ocean Avenue

Governing Agreements: [Disposition and Development Agreement](#) with Related California (2008), [Development Agreement with Related California](#) (2008), [Loan Agreement with Wells Fargo Bank](#) (2011), [Tax Allocation Bond Offering Official Statement](#) (2011) and [Construction Contract with O'Neil Construction](#).

Governing Restrictions: [Civic Center Specific Plan](#), [Coastal Development Permit 5-11-145](#) for Palisades Garden Walk, [Coastal Development Permit 5-08-159](#) for Civic Center Village, [Resolution 10651 First Court Alley Dedication Public Right of Way](#), and [Resolution 10622 Extension of Olympic Drive Dedication Public Right of Way](#).

Overview of Parks and Public Right of Way Improvements: In 2000, the RDA purchased 11.3 acres of property formerly owned by the RAND Corporation. In 2005, the City adopted an update to the Civic Center Specific Plan which designated the former RAND holdings for mixed-use residential development, a public park, and a new public road and associated public improvements. The new road is currently under construction by Related California pursuant to its [Disposition and Development Agreement](#), [Development Agreement](#), and [Coastal Development Permit 5-08-159](#), with completion expected in late 2013 or early 2014. Upon completion, the roadway must be dedicated for public use. The public park and adjacent alleyway are currently under construction by the City of Santa Monica pursuant to [Coastal Development Permit 5-11-145](#). The

parks and public improvements cannot be used for any other purpose and no government agency other than the City would be likely to assume the operating costs and liabilities associated with the park and public improvements.



**NOTICE OF PROPOSED ACTION BY THE
SANTA MONICA REDEVELOPMENT SUCCESSOR
AGENCY OVERSIGHT BOARD TO AUTHORIZE
THE TRANSFER OF OWNERSHIP OF CERTAIN REAL PROPERTY
ASSETS CONSTRUCTED AND USED FOR A GOVERNMENTAL
PURPOSE TO THE CITY OF SANTA MONICA PURSUANT TO
SUBDIVISION (A) OF HEALTH AND SAFETY CODE SECTION 34181**

On May 8, 2013, the Santa Monica Redevelopment Successor Agency Oversight Board ("Oversight Board") will consider a proposed action to authorize the transfer of ownership of real property assets constructed and used for a governmental purpose to the City pursuant to any existing agreements relating to the construction or use of that asset ("Proposed Action").
*All addresses are located within the City of Santa Monica, California

Address*	Government Purpose
1700 Main	public park
1673 Ocean Ave	public park
1665, 1677 and 1683 Ocean Ave	public right of way
1234 4 th Street (Parking Structure 1)	public parking structure
1235 2 nd Street (Parking Structure 2)	public parking structure
1318 and 1320 4 th Street (Parking Structure 3)	public parking structure
1321 2 nd Street (Parking Structure 4)	public parking structure
1440 4 th Street (Parking Structure 5)	public parking structure
1431 2 nd Street (Parking Structure 6)	public parking structure
320 Broadway (Parking Structure 7)	public parking structure
215 Colorado (Parking Structure 8)	public parking structure
2701 Barnard Way	public park and landscaped pathway
3275 Barnard Way	public landscape pathway
3285 and 3358 Barnard Way	public street and landscape pathway
2918 Barnard Way and 110 Pier	public street, bike path and park

WHAT: Santa Monica Redevelopment Successor Agency Oversight Board
Public Meeting to consider the Proposed Action

WHERE: Ken Edwards Center
1527 4th Street, Room 100 A/B
Santa Monica, 90401

WHEN: Monday, April 22, 2013 Wednesday, May 8, 2013 (Item 2-A Continued)
5:30 p.m.

Police say Boston suspects planned to attack New York

COLLEEN LONG & JENNIFER PELTZ
Associated Press

NEW YORK The Boston Marathon bombers were headed for New York's Times Square to blow up the rest of their explosives, authorities said Thursday, in what they portrayed as a chilling, spur-of-the-moment scheme that fell apart when the brothers realized the car they had hijacked was low on gas.

"New York City was next on their list of targets," Mayor Michael Bloomberg said.

New York Police Commissioner Raymond Kelly said Dzhokhar Tsarnaev told interrogators from his hospital bed that he and his older brother decided on the spot last Thursday night to drive to New York and launch an attack. In their stolen SUV they had five pipe bombs and a pressure-cooker explosive like the ones that blew up at the marathon, Kelly said.

But when the Tsarnaev brothers stopped at a gas station on the outskirts of Boston, the carjacking victim they were holding hostage escaped and called police, Kelly said. Later that night, police intercepted the brothers in a blazing gunbattle that left 26-year-old Tamerlan Tsarnaev dead.

"We don't know if we would have been able to stop the terrorists had they arrived here from Boston," the mayor said. "We're just thankful that we didn't have to find out that answer."

The news caused New Yorkers to shudder with the thought that the city may have narrowly escaped another terrorist attack, though, whether the brothers could have

night by the task force investigating the Boston bombing.

Rep. Peter King, R-N.Y., said in a CNN interview that the city should have been told earlier.

"Even though this may or may not have been spontaneous, for all we know there could be other conspirators out there, and the city should have been alerted so it could go into its defensive mode," he said.

Asked about the delay, Bloomberg said: "There's no reason to think the FBI hides anything. The FBI does what they think is appropriate at the time, and you'll have to ask them what they found and what the actual details of the interrogation were. We were not there."

Kelly, citing the interrogations, said that four days after the Boston bombing, the Tsarnaev brothers "planned to travel to Manhattan to detonate their remaining explosives in Times Square."

"They discussed this while driving around in a Mercedes SUV that they hijacked after they shot and killed the officer at MIT," the police commissioner said. "That plan, however, fell apart when they realized that the vehicle they hijacked was low on gas and ordered the driver to stop at a nearby gas station."

A day earlier, Kelly said that Dzhokhar Tsarnaev had talked about coming to New York "to party" after the attack and that there wasn't evidence of a plot against the city. But Kelly said a later interview with the suspect turned up the information.

"He was a lot more lucid and gave more detail in the second interrogation," Kelly said.

Adopted and approved this 8th day of May, 2013.



Paul Silvern, Chair
Successor Agency Oversight Board

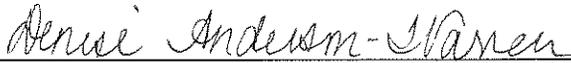
I, Denise Anderson-Warren, Secretary to the Successor Agency Oversight Board, do hereby certify that the foregoing Resolution No. 13 (SAS-Oversight Board) was duly adopted at a meeting of the Oversight Board meeting held on the 8th day of May, 2013, by the following vote:

AYES: Board Members Dijkstra, Kanschä, Lawson, Luboff, Maez,
Vice-Chair Moran, Chair Silvern

NOES: None

ABSENT: None

ATTEST:



Denise Anderson-Warren, Secretary
Successor Agency Oversight Board