

Office of the City Manager

September 23, 2011

Robert Collier, Co-chair, Berkeley Pools Campaign
JoAnn Cook, Steering Committee member and former co-chair, Berkeley Pools Campaign
Ed Gold, Co-chair, Berkeley Pools Campaign; Chair, Commission on Aging;
Commissioner, Commission on Disability
Madelyn Stelmach, Steering Committee member, Berkeley Pools Campaign;
Commissioner and former chair, Commission on Disabilities

Re: Letter to the City Manager dated September 11, 2011 containing questions regarding the Warm Water Pool

Dear Mr. Collier, et.al.:

In this letter, please find responses to your questions to me dated September 11, 2011 regarding the Warm Water Pool.

Letter - Question 1. *Regarding the Warm Pool, if the City's plan is to provide subsidies or otherwise enhanced access to the Berkeley YMCA pools for current Warm Pool users, what is the City's estimate of how many disabled and elderly Warm Pool users will *not* be adequately served by this arrangement, either because the YMCA option might not include 92-degree deep water, or because of accessibility issues or other matters?*

City Manager Response:

The City is currently in discussion with the Berkeley YMCA about how warm water pool users can use the pool facilities at the Berkeley YMCA. The YMCA has two newly renovated warm water pools: an 88-90 degree pool and a 91 degree pool. The pools at the Berkeley YMCA are fully accessible to persons with disabilities. The YMCA also provides significant scholarships based on financial need. The City anticipates that anyone who chooses to use the pool facilities at the Berkeley YMCA will be adequately served.

Letter - Question 2. *Regarding #1, what is the City's interpretation of its obligations under the Americans With Disabilities Act?*

City Manager Response:

The City is a public entity covered by Title II of the Americans With Disabilities Act ("ADA"). As such, it is prohibited from discriminating on the basis of disability. Qualified individuals with disabilities are protected from discrimination on the basis of disability in the services, programs, or activities of the City, which includes the City's Aquatics Program. The City's Aquatics Program is designed to comply with the ADA, and operationally, every effort is made to comply with the ADA.

Letter - Question 3. *Regarding the Warm Pool, if the City's plan is to provide enhanced access to the Berkeley YMCA pools for current Warm Pool users, what is the City's estimate of how many current patrons of the Warm Pool's Parent & Tot and Aqua-Chi programs will *not* be adequately served because of cost or other factors?*

City Manager Response:

Please see the response to Question 1. above.

Letter - Question 4. *On Measure C, why did the City stipulate 45 percent soft costs, when the regional/industry norm is 25 percent? BUSD's capital projects in 1992-2011 averaged 21percent, Albany pools 18 percent and Measure FF (Berkeley branch libraries) was 36 percent because of historical landmark issues and complicated remodeling.*

City Manager Response:

The City used the following methodology in determining the projected cost of the Pools Bond (Measure C) of 2010: a) the City used the services of a professional cost estimator to project construction costs; and b) the City used its standard methodology through Public Works Engineering to determine soft costs and all other required project costs such as design costs, project and contract management, environmental review, inspection, site testing, and project contingency. The City has decades of experience in managing capital construction projects and has found that this methodology has been successful in estimating the actual costs of large-scale public works construction projects. There will be some discussion of costs at the Council Workshop Presentation by the Parks Recreation & Waterfront Department on September 27, 2011.

Letter - Question 5. *On Measure C, why did the City stipulate 17.5 percent for construction contingency, when the regional/industry norm is 5 percent for new construction and 10 percent for remodels?*

City Manager Response:


The Bond measure did not stipulate these percentages. These costs were projected estimates. Please see the response to Question 4. above.

Letter - Question 6. *On Measure C, of the 45 percent soft costs and other categories, how much was intended for City staff overhead? We note that BUSD normally charges 0.5 percent staff overhead for capital projects with an external manager, Albany Unified School District is charging zero staff overhead on its pools projects, and Measure FF included zero staff overhead.*

City Manager Response:

Based on our experience on joint projects with the District, these numbers are inconsistent with what they have shared with us. Please see the response to Question 4. above.

Sincerely,

 for Philip Kamlarz

Philip Kamlarz
City Manager

cc: Mayor and City Council
Christine Daniel, Deputy City Manager