

**CITY OF NEWPORT BEACH  
CITY COUNCIL STAFF REPORT**

Agenda Item No. SS 4  
August 11, 2009

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** City Manager's Office  
Sharon Wood, Assistant City Manager  
949-644-3222, swood@newportbeachca.gov

**SUBJECT:** Report of Funding Feasibility for Open Space Acquisition of Banning Ranch

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**ISSUE:**

What is the feasibility of funding for the acquisition of Banning Ranch as open space?

**RECOMMENDATION:**

The Banning Ranch Appraisal and Acquisition Ad Hoc Committee recommends that the City continue its existing agreement with David Myerson of Resource Opportunity Group, LLC to explore potential opportunities for open space acquisition, as the environmental and development review process for Newport Banning Ranch's development proposal moves forward.

**DISCUSSION:**

**Background:**

The General Plan establishes open space as the primary use for Banning Ranch, and provides that if it is "...not acquired for open space within a time period and pursuant to terms agreed to by the City and the property owner, the site may be developed as a residential village..., with a majority of the property preserved as open space."

The City Council set the following as a priority for 2008 and 2009: "Conduct an appraisal of the Banning Ranch property and assess funding available for the purchase of the property for open space." In February 2008, the Council appointed the Banning Ranch Appraisal and Acquisition Ad Hoc Committee comprised of Mayor Selich and Council Members Gardner and Rosansky.

After research by staff on the qualifications and process for hiring an appraiser, the Committee directed staff to retain David Myerson of Resource Opportunity Group, LLC as the City's open space acquisition consultant. Mr. Myerson assisted the City with selection of an appraiser, whose report was presented to the City Council in study session on January 27, 2009.

Funding Feasibility Report:

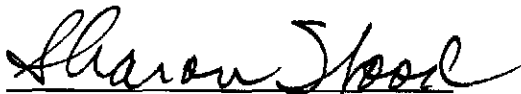
Mr. Myerson's report on the feasibility of funding an acquisition of Banning Ranch for open space is attached. In light of current economic and State fiscal conditions, he has found that there is little likelihood of funding from State bonds or private foundations in the near future. While some local sources, such as Measure M, might be available in the next three to four years, these would not provide nearly enough for the estimated \$138,000,000 to \$158,000,000 price for the entire property. In addition, it is the belief of some agencies with whom Mr. Myerson spoke that the important habitat areas on Banning Ranch should be preserved through the development entitlement process, and public funding should not be used for acquisition of the entire property.

In light of these findings, Mr. Myerson is recommending that the City continue to explore potential opportunities for creative acquisition scenarios through the environmental and development review process. The City Council's Banning Ranch Appraisal and Acquisition Ad Hoc Committee met on July 27, 2009, and reviewed Mr. Myerson's report. They support his recommendation to continue exploring open space acquisition possibilities as the City moves forward with review of the property owner's development application. In addition, the Committee recommends that the City continue its agreement with Mr. Myerson as a resource to monitor funding opportunities and explore potential new alternatives for open space acquisition.

Public Notice:

Staff provided notice of this study session to those who have subscribed to receive e-select alert messages on Newport Banning Ranch Updates, and to the list of interested parties and property neighbors maintained by the City.

Submitted by:



Sharon Wood  
Assistant City Manager

Attachment: Consultant Report

## REPORT TO THE CITY COUNCIL CITY OF NEWPORT BEACH

Approximately one year ago, Resource Opportunity Group LLC was retained by the City of Newport Beach to assist in the following tasks:

- 1) Advise the City on methods and approaches for appraisal of the property known as the Banning Ranch;
- 2) Assist the City in the selection process to engage an appraisal firm to assess the fair market value of the Banning Ranch;
- 3) Assist the City to identify potential sources of conservation funds for possible acquisition of the Banning Ranch and to assess the feasibility of such an acquisition;
- 4) Perform other project related tasks as requested.

In the course of this assignment I worked closely with City Staff as directed, and participated in several meetings with the Banning Ranch Appraisal and Acquisition Ad Hoc Committee of the City Council.

### **Task 1: Advise the City on methods and approaches for appraisal of the property**

In conversations with various appraisers and considering prior transactions of this nature, the recommendation to the City was that a complete narrative appraisal of the subject property was premature at this time. The suggestion instead was that the City retain an appraiser to prepare a Consultive Pricing Study that would define a potential range of values for the property. This method would allow the City to explore different acquisition and development scenarios with the developer and community members. This approach would also allow the City to control expenditures at this early stage of negotiations.

### **Task 2: Assist the City in the selection process to engage an appraisal firm**

In this regard, four firms were contacted to solicit Consultive Pricing Study proposals. All four firms submitted proposals, and all four firms were interviewed telephonically. One firm, Buss-Shelger Associates was invited to meet with the Appraisal and Acquisition Ad Hoc Committee of the City Council. Subsequently, Buss-Shelger Associates was selected to prepare a Consultive Pricing Study. The completed report was presented to the full City Council at its January 27, 2009 public meeting and study session.

See Appendix A – Summary of Consultive Pricing Study

### **Task 3: Assist the City to identify potential sources of conservation funds**

This was probably the most challenging task in the assignment. Given the current unsettled economic conditions faced by potential funders, both public and private, identifying sources of conservation funding was more time consuming than anticipated. What follows are brief summaries of discussions with funding agencies and private foundations, who may be expected to have an interest in the conservation of the Banning Ranch.

- 1) **California State Coastal Conservancy** – In a telephone conversation with Mary Small, South Coast Regional Manager:

Mary Small is familiar with the Banning Ranch and the efforts to preserve its wetland and upland areas. The Coastal Conservancy has been a major contributor to preservation efforts along the California coast for many years. The remaining budget allocation from all bond sources for Orange County however, is not that large due to previous acquisition projects at Bolsa Chica and elsewhere. If there were to be a financial contribution to a consortium of funders, the Coastal Conservancy believes it would only be able to play a small and insignificant role in the acquisition. Mary told me that it is her belief that the most important wetland and upland habitat should be preserved through the entitlement process. That would be the preferred outcome. The pressure for remaining Prop. 84 funds is tremendous, and no additional funding sources are anticipated in the near term due to continuing budget difficulties.

- 2) **Orange County Transportation Authority (OCTA) Measure M Mitigation Funds** – In a telephone conversation with Dan Silver, member of the Environmental Oversight Committee on funding priorities:

Dan Silver is very familiar with the Banning Ranch, having heard from advocates for preservation for many years. While Banning Ranch would likely qualify for funding from Measure M, such approval would likely not result in allocations for 3-5 years. He estimates that there may be approximately \$30 million for each of the next 3 – 4 years for project application, but that the first 2 to 3 years already have priority projects ready to go, with others lined up for consideration. Even if the Environmental Oversight Committee and other agency decision-makers decided to allocate a portion of the annual allotment to the Banning Ranch, tax revenues supporting the allocations are not likely to show an increase over the projected \$30 million or so, leaving an acquisition effort far short of the anticipated necessary funds to pull down the entire 400 acre ranch. Dan Silver was also hopeful that the entitlement process would ensure the preservation of priority wetland and upland areas. In fact, he mentioned that one of the funding criteria will be to respond to the question: “why doesn’t the permitting process require the preservation of sensitive habitat”?

See Appendix B – Measure M Funding Requests and Related Correspondence

- 3) **The Wildlands Conservancy** – In a telephone conversation with David Myers, Executive Director:

The Wildlands Conservancy (TWC) is a private foundation located in Oak Glen, California (near Yucaipa and Redlands). I believe they are the largest private non-profit landowner in California of conservation lands. One of the foundation's long-time project interests is the Santa Ana River corridor. TWC helped bring the Prop. 84 Bond measure to the ballot, resulting in Santa Ana River funding allocations. They assisted in the efforts to create a public trail along the length of the river corridor. They are however, not interested in participating in a funding consortium for the acquisition of the Banning Ranch because they believe as well, that the entitlement process should result in the appropriate conservation and public access/use of the property.

- 4) **Resources Law Group, representing the Resources Legacy Fund and Fund Foundation** – In a telephone conversation with Mary Scoonover, Attorney for the Resources Law Group:

Resources Law Group is uniquely qualified to speak about these issues as they have been at the center of the grant community for many years, having been in charge of re-granting for the Packard Foundation land acquisition program, along with other high profile organizations.

Private foundation endowment portfolios have suffered large declines along with the rest of the investing community. Thus, their available budgets for programs of all types, including acquisition projects have been slashed. Some funds have closed down altogether and others have halted all expenditures pending a further review later in 2009 and 2010.

Many of these foundations and grant-making organizations have decided to utilize this time to "re-vision" their mission and priorities. Preliminary results from these internal discussions seem to indicate that many of them may seek to adjust their future grants to target more specifically some of the missing components in the acquisition process. So, for example, connecting local communities via river parkways is a major focus. Especially where those connections can include underserved communities. Examples of this would be the Los Angeles River revitalization project, Otai River, San Joaquin and Tuolumne Rivers. While it is true that the Banning Ranch property would be the downstream anchor point for a Santa Ana River parkway, the City of Newport Beach and surrounding communities are not perceived as underserved.

Where acquisition of open space can foster awareness in underserved communities on issues such as the connections between obesity, exercise and health, clean water, urban parks and public education, these issues rise to the top of the list in terms of priority funding. Grants are also being considered by

foundations where they will empower local communities to engage each other in public discussions about the above mentioned topics.

- 5) **Stimulus Funds** – My research into this funding arena was greatly limited by my lack of previous experience in utilizing this mechanism to gather acquisition funds from State and Federal sources related to Stimulus legislation. It appears that most of the application procedures noted deadlines in the first 6 months of 2009, as the stated goal for these funds was to “stimulate” the economy as quickly as possible. That said, many of the programs were quite limited in scope and individual project grants were under \$1,000,000. An example of one land acquisition program: Acres for America. Fund the acquisition of forest land on an acre per acre basis to mitigate for impacts created by Wal-Mart in its domestic operations. Program total: \$5,000,000. Award ceiling: \$500,000. The list goes on and on. If the City is desirous of further research into this funding arena, it may warrant more specialized expertise.

At the City’s request, I also spoke with representatives of the Banning Ranch Conservancy and other parties interested in preservation of the Banning Ranch property.

- 1) **Banning Ranch Conservancy** – In a meeting and subsequent telephone conversations with Terry Welsh and Steve Ray, representing the Conservancy, concern was expressed that as the Environmentally Sensitive Habitat Area (ESHA) boundaries have not been ultimately decided, likely development scenarios and resulting valuation ranges cannot be accurately determined at this time. Terry believes this uncertainty impacts the validity of the Pricing Study’s conclusions and its usefulness in informing the City Council regarding decisions affecting the Banning Ranch property. Per Terry, “as ESHAs are generally not considered to have development potential, the final figure for the Buss-Shelger comparative pricing study of the Banning Ranch property could be looked at as a “ceiling”, with the final value to be determined once all of the appropriate surveys and studies have been conducted, and the appropriate agencies and governmental bodies have decided on ESHA boundaries”. Finally, the Conservancy representatives acknowledged that this will be a long-term project and the organization must continue to build internal capacity in the areas of science, education, and advocacy to meaningfully participate in the process. The Conservancy has continued to submit comments to the City on published environmental documents, and has embarked upon an effort to raise awareness of conservation funding requirements through periodic presentations to public agencies as appropriate.
- 2) **Friends of Harbors, Beaches and Parks** - In a telephone conversation, Jean Watt, representing Friends of Harbors, Beaches and Parks, expressed concern that the City of Newport Beach not rush to any conclusion that might preclude an acquisition or conservation plan for the entire 400 acre site. She noted that her experience in other conservation projects has taught her that these development projects can take many years to completely unfold, and market and/or regulatory

trends can influence the final outcome of a proposed project long after the initial environmental documents are submitted.

- 3) **The Conservation Fund** – In a telephone conversation, Scott Ferguson, Southern California Program Director noted the difficult fiscal environment in which all organizations engaged in land acquisition currently operate. Scott agreed that the most likely funding candidates have already been approached, and that fundraising efforts will likely be a long-term process. We agreed it is likely that an organization such as the Conservation Fund with experience in transactions such as this will be required to shepherd the process for the conservation community.

### **Assignment Conclusion**

As a result of my meetings and conversations with the above referenced public agencies and private foundations, it does not appear that sufficient funds would be available to acquire the entire 400+ acres of the Banning Ranch in any reasonable timeframe. State bond funds are currently unavailable due to budgetary constraints and it is unknown when those funding sources might become available for new projects. Local funding sources might be more readily available, but not at the level that would make possible a successful acquisition transaction of the Ranch.

If, as some have suggested, that regulatory authorities ultimately downsize the proposed development project resulting in a reduced land valuation, new opportunities may arise for conservation funding to be applied to various acquisition scenarios at the Banning Ranch if economic conditions are favorable. It must be pointed out however, that portions of this property carry a significant per-acre valuation which must be prioritized alongside other state-wide acquisition projects.

Thus, I recommend patience and a steady course through the environmental review process that, along with evolving market conditions and agency financing guidelines, may yield creative acquisition scenarios, not yet contemplated.

## APPENDIX A

### SUMMARY OF CONSULTIVE PRICING STUDY

**BUSS-SHELGER ASSOCIATES**  
Real Estate Consultants & Advisors

600 S. Figueroa Street  
Suite 3300  
Los Angeles, California 90017  
Telephone: (213) 388-7272  
Fax: (213) 388-5276  
E-Mail: bussshelger@pacbell.net

December 23, 2008

City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92268-8915

Resource Opportunity Group  
811 6<sup>th</sup> Street, Suite 301  
Santa Monica, CA 90403

Attn: Ms. Sharon Wood  
Assistant City Manager

Mr. David Myerson  
Proprietor

Re: Consultive Pricing Analysis  
Potential Acquisition Components  
Banning Ranch, Newport Beach

Our File No. 4262-08

Ladies & Gentlemen:

Buss-Shelger Associates has been requested to ascertain for the City the magnitude of capital funds from various sources that will be required to purchase all or portions of the Banning Ranch, depending on priorities. The current project proposes development on roughly one-half of the 402-acre Ranch; entitlements are being sought for 1,375 dwelling units, 75 hotel rooms, 75,000 square feet of commercial space plus visitor oriented facilities.

In order to assist the City in their deliberations, relevant market information has been assembled involving properties with features similar to the various Banning Ranch components. These price benchmarks have been applied to the subject components on both a conservative and optimistic basis. The market data program consists of the following broad categories.

- Larger coastal degraded wetlands purchases
- Sales of developable sites adjacent to wetlands
- Transfers of developable marine terrace
- Environmentally sensitive hillside acquisitions.

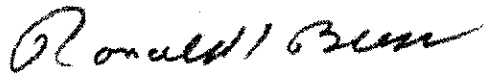
Extensive back up details on each data item has been retained in our files, to be included in a final appraisal report if required. In the interest of providing concise results, the information will be shown in summary form in our ensuing presentation with an analysis and pricing recommendations. In the interest of efficiency, the conclusions may be found in the table on the following page. Additionally, we have provided our judgment as to the "bulk price" in the event the entire Banning Ranch is sought for acquisition rather than smaller increments.



A	Lowland Open Space	134.1	\$ 8,000,000	\$ 8,700,000
B-1	Oil Recovery Site	11.7	1,300,000	1,500,000
B-2	Oil Recovery Site	4.8	900,000	1,000,000
B-3	Benchland Open Space	43.5	6,500,000	7,600,000
C-1	Benchland Development	85.4	111,000,000	128,100,000
C-2	Benchland Development	29.7	52,000,000	59,400,000
D	Hillside Open Space	<u>93.1</u>	<u>4,200,000</u>	<u>4,700,000</u>
TOTALS .....		402.3	\$184,000,000	\$211,000,000
BULK PRICE (25% Discount) .....			\$138,000,000	\$158,000,000

Set forth on the following pages may be found concise general land use comments, market information plus our recommendations pertaining to each land use category by parcel as shown above.

Respectfully submitted,  
**BUSS-SHELGER ASSOCIATES**



Ronald L. Buss

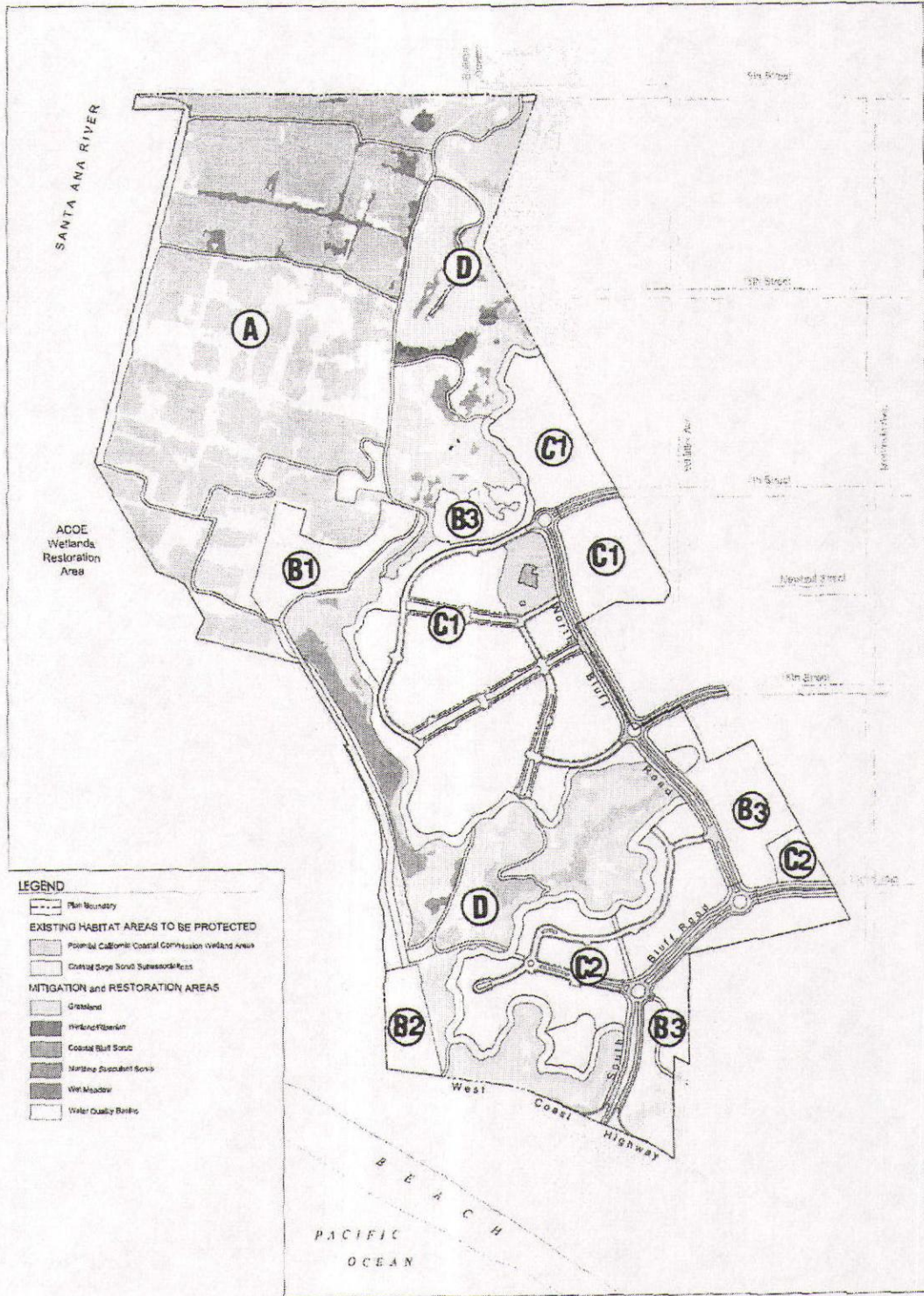


Exhibit 3-1  
Habitat Protection and Restoration Plan

NEWPORT BANNING RANCH

## APPENDIX B

### MEASURE "M" FUNDING REQUESTS AND RELATED CORRESPONDENCE



## CITY OF NEWPORT BEACH

OFFICE OF THE MAYOR

April 15, 2009

**Mayor**

Edward D. Selich

**Mayor Pro Tem**

Keith D. Curry

**Council Members**

Leslie J. Daigle

Nancy Gardner

Michael F. Henn

Steven Rosansky

Don Webb

Mr. Peter Buffa

Chairman, OCTA

550 South Main Street

Orange, CA 92863-1584

Dear Chairman Buffa:

The Newport Beach City Council has embarked on an effort to determine if there is sufficient funding from various sources to acquire the 400 acre site known as the Banning Ranch. This site lies partially in Newport Beach and partially in the County's jurisdiction, north of Pacific Coast Highway adjacent to the Santa Ana River.

The Newport Beach City Council authorized the City to request Measure "M" environmental mitigation funding for this project, in addition to three others, on January 27, 2009; and that request was submitted to OCTA. I want to make it clear that the City is not in any way in competition with the Banning Ranch Conservancy for these funds. The City supports the acquisition of Banning Ranch for open space by any party capable of purchasing, protecting and maintaining it, and we support the request being made by the Banning Ranch Conservancy as being consistent with our own request.

The Banning Ranch property has significant wetlands and wildlife value, and deserves to be preserved for the enjoyment of all County and State residents. The City Council believes the acquisition of Banning Ranch by the Conservancy, the City or some other capable party meets the full intent of the Measure M funding set aside for acquisition and restoration purposes, and would be a great legacy for these Measure M funds.

We strongly support Measure M funding for Banning Ranch and will continue our work to identify any additional funding needed.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Edward D. Selich".

EDWARD D. SELICH

Mayor

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Newport Beach California 92658-8915 • [www.city.newport-beach.ca.us](http://www.city.newport-beach.ca.us)  
(949) 644-3004

COPY

CITY OF NEWPORT BEACH



May 21, 2009

Chair Patricia Bates and Committee Members  
Environmental Oversight Committee  
Orange County Transportation Authority  
550 South Main Street  
P. O. Box 14184  
Orange, CA 92863-1584

Dear Chair Bates and Committee Members:

Your Committee has received three requests for Measure M environmental mitigation funding related to the Banning Ranch property, located in Newport Beach and its sphere of influence. The purpose of this letter is to clarify the City's position on these requests and eliminate confusion that may arise during the Committee's deliberations.

As background to these requests, Newport Beach adopted an updated General Plan in 2006. The plan includes two options for the Banning Ranch property. The primary use is open space if the site is acquired through public finding. If the site is not acquired for open space within a time period and pursuant to terms agreed to by the City and the property owner, the site may be developed for the alternative use, a residential village. Even under the development option, a majority of the property is to be preserved as open space.

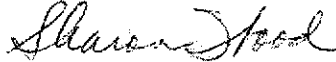
Both the City of Newport Beach and the Banning Ranch Conservancy submitted requests for funding to assist in acquisition of the entire property, to implement the General Plan's primary use for the property. As noted in Mayor Selich's letter of April 15, 2009, to OCTA Chair Peter Buffa (attached), the City supports the acquisition of Banning Ranch for open space by any party capable of purchasing, protecting and maintaining it, and the City supports the request of the Conservancy as being consistent with our own request. In support of this position, the City has received a pricing study of the property, and retained an open space acquisition consultant to help investigate the availability of funds for acquisition of the property.

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The property owners, Newport Banning Ranch LLC (NBR), and the City have begun the process of public review of their development proposal, consistent with the alternative use in the City's General Plan. As one means of complying with the General Plan requirement that a majority of the property be preserved as open space, NBR also has submitted a request for Measure M funding for private parties to acquire 80 acres of the site to be used as a mitigation bank. The City is also supportive of this request, as it is consistent with both land use alternatives in our General Plan.

Thank you for the opportunities to speak at your meeting of May 6, 2009, and to provide further clarification in this letter. If you or your staff would like additional information or clarification on the City's planning for Banning Ranch, please call me at 949-644-3222.

Sincerely,



Sharon Wood  
Assistant City Manager

cc: Homer Bludau, City Manager  
Michael Mohler, Newport Banning Ranch LLC  
Terry Welsh, Banning Ranch Conservancy

