

Ownership Succession: Plan Now for the Future of Your Land¹

Chris Demers²

Consider this reality: millions of acres of family-owned lands in the United States will change hands within the next decade, and many of these transfers will happen with virtually no planning. Although many landowners wish to pass their forestland on to family members, few have taken the necessary steps to make that happen. The USDA Forest Service projects that, nationwide, about 23.2 million acres of forestland will pass out of forest use over the next 50 years. Most of these acres will be privately owned, nonindustrial forest lands converted to residential subdivision.

What can I do to plan for my land's future?

Lack of communication coupled with differences among family members in values, goals and management skills can lead to unintended results for a family and their property. Deliberate communication and planning is essential and must involve the entire family in order to ensure that each member's values are understood and the transfer of the property to the next owner(s) is fair.

Succession planning is the process of setting up a smooth transition between you and the future owners of your property. While estate planning is an important part of the process of passing the land on to the next owner, estate planning alone will not ensure that the property will be owned and managed in the future as you intend. When land is passed to children intact and with clear visions about how it is to be managed and why, the land is much more likely to be kept intact and managed as a legacy to the parents. This can establish a pattern for future generations.

Disclaimer: The material in this publication is intended for general education. Individuals, businesses, and government entities that have legal or tax-related questions should consult their legal counsel or other specialists and references for assistance.

8 Steps to Succession Planning

Step 1: Discuss your vision and goals for the land with your spouse and write them down. What is your vision? What do you want for your land's future? Is it simply an investment asset that you know will be sold at some point? Or do you intend it

1. This document is FOR 212, one of a series of the School of Forest Resources and Conservation Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida. Original publication date March 2009. Visit the EDIS Web Site at <http://edis.ifas.ufl.edu>.
2. Chris Demers, Forest Stewardship Coordinator, School of Forest Resources and Conservation, Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida, Gainesville, FL 32611.

to be owned and managed by your heirs and their heirs for future generations to come? Which heirs, if any, do you think are interested in carrying on the land management? Do you simply want the land to be kept intact by future owners? Whatever your answers to these questions, they should be written down. Talking and writing down a vision and your goals will help you think more clearly about it. Putting your goals into words is a big step toward making sure your vision for your land becomes reality, because it will make it easier to communicate that vision to family and advisors. If you do not have a spouse, discuss this step with someone you trust.

Step 2: Hold a family meeting to discuss your vision and goals for the property with the family, and get their feedback. Share your vision and goals for the property and then determine your family's interests. This is one of the more challenging steps of the process because it involves family members' emotions and their relationships with each other and with the land. Thinking about and discussing the future is likely to evoke strong emotions associated with aging, death, sibling relations, parent-child relations, personal visions and the like. Encourage frank communication, let your children do most of the talking, and take careful notes. Although challenging, this will also be a process of discovery for you and the family, and it will help you make important decisions. You may not realize how connected to the land (or disconnected from it) some family members are, and it will be important to know about these relationships in order to plan for the best transition.

What about spouses of children? In most but not all cases, it is best to exclude spouses of children from family meetings. Make this decision first and be consistent. It may be best to keep spouses involved at a more informal level (e.g. discuss property issues and plans with spouses at family functions and gatherings).

Should I hire a facilitator? If you will raise difficult issues or feel uncomfortable leading the meeting, you may want to hire or assign a neutral facilitator to keep discussions on track and make sure all voices are heard.

Step 3: Create a family business structure to own the land. This structure defines how business is conducted, how you are taxed, and how much liability you bear. The best structure will depend on how large and complicated the business is. Family Limited Partnerships and Limited Liability Companies are currently the most preferred structures for family lands, but there are several options. For complete descriptions of ownership structures for farms or ranches see <http://www.timbertax.org/publications/aghandbook/pdf/ch12.pdf> and <http://www.cfra.org/files/BusinessStructure.pdf>.

Step 4: Choose and train a successor. In many families, running the family business and managing the family land has been the task of the senior generation. Often, there is nobody prepared to take that role in the next generation. The successor(s) will manage the family business, so it is essential that he/she/they have, or gain, the acceptance of the rest of the family. If possible, choose someone who has a deep interest in the continued management of the property, even if their vision differs somewhat from your own. Use consistent patterns for decision making, and train the successor(s) to do the same. The longer you can do this, the more ready and able the successor(s) will be to carry on this important role.

Step 5: Hold regular family meetings to discuss concerns and the business. Develop a meeting agenda and circulate it before the meeting to invite input and to make sure everyone is engaged. At the start of the meeting disclose any conflicts of interest or intra-family financial arrangements, and explain how decisions will be made on each agenda item. This is an opportunity to teach the family about the business structure, to work out how decisions will be made, and to present updates on any progress in the management of the property. Also use this as an opportunity to continue sharing your passion and vision for the land.

Step 6: Discuss and write down important decisions. Examples include but are not limited to:

- For what objectives will the property be managed?

- Who will be responsible for regular management and how much oversight will that person have from the rest of the family?
- At what age does the next generation qualify for ownership?
- Under what conditions will the property or assets be sold?
- Will you allow the property to be mortgaged?

Step 7: Set employment policies before hiring family members. If you plan to hire family members to do work on the property, follow the employment laws for your state and make these decisions before any work begins:

- How will payment or salaries be determined and how will they be paid?
- What are the duties and expectations, your own and your employees'?
- Who is eligible for work and what are the qualifications? Is there any special training or education needed for the job?

Step 8: Create non-financial reasons for keeping the property. Have fun! Encourage the kids and grandkids to visit the property and provide opportunities for everyone to be involved in enjoying and managing the property. For example, set up a camping area, hiking or riding trails, interpretive trails, a shooting range; create a pond or build a dock for one that's already there. Host a tour of the property for a group or organization such as the Scouts, 4-H or Future Farmers at the property. Seeing the property through someone else's eyes can be very encouraging and motivating.

Conservation Options: Legal Tools to Protect Current Uses

Several available legal tools can help you protect current uses on your property. Easements provide a way to restrict future use, provide constraints to future owners, and protect certain values. They can also reduce the market value of the land, making estate planning a little easier. Donations can be a part of a succession plan by managing estate value and

passing on a land legacy to the community. Florida is among the fastest growing states in the United States. With rapid growth comes pressure to convert forest and agricultural lands to residential and/or commercial uses. If conversion is not part of your vision, and you have a strong connection to your land in its current forest or agricultural use, there are tools available to protect it from being converted or zoned for other purposes.

Conservation Easements

Conservation easements may be a viable option for landowners who wish to maintain ownership and use of their property but want to prevent future residential and commercial development on it, and for those who want to reduce their heirs' tax liability. Options for what you can do on your land under an easement can be tailored to your long term vision for the property. For more about this option, see <http://edis.ifas.ufl.edu/FR149>.

Donations / Charitable Gifts

Donating land as a charitable gift to a public agency, land trust, or nonprofit organization can eliminate taxes associated with property ownership. Land donations may be a good option for landowners who want the property to be protected but who: 1) do not intend to pass land to heirs; 2) own land that they no longer wish to manage; 3) own highly appreciated property that poses a tax burden; and/or 4) have substantial real estate holdings and wish to reduce estate tax burdens. For more about this, see <http://edis.ifas.ufl.edu/uw194>.

Conclusion

The future of your land begins now with your visions and goals for it. Making that vision a reality begins with getting that vision and those goals written down. That becomes the template for your legacy. When land is passed to future owners intact and with clear visions about why and how the land is to be managed, the land is much more likely to be kept intact and managed as a legacy to previous owners. This establishes a pattern for future generations.

Resources to help you plan

Master Tree Farmer 2007 mini-series, "Preparing for the Next Owner": broadcast via satellite across the southern region, this program addressed many of these issues and others. DVDs of this program are available for sale on the Master Tree Farmer regional Web site:
<http://mastertreefarmer.org/>.

Ties to the Land Institute: a collaborative public/private educational initiative housed at the Austin Family Business Program at Oregon State University, which develops and distributes educational materials for family woodland owners. Informational materials include the Ties to the Land workbook by Clinton Bentz and others, and a DVD-based workshop. The Institute offers creative resources to guide family forest owners through a smooth transition of their forest property from one generation to the next. These resources were provided as part of the Master Tree Farmer "Preparing for the Next Owner" series.
<http://www.familybusinessonline.org/resources/ttl/home.htm>.

Cover Your A\$\$ets: Estate Planning, Conservation Planning and Income Options for Forestland Owners: an award-winning University of Florida/IFAS Extension project, this 2-DVD / 1-CD set contains prerecorded workshop presentations on these topics, other media and many printable resources and Web links to relevant material. It is available for sale (\$40.00 plus shipping) from the UF-IFAS Extension Bookstore:
<http://www.ifasbooks.ufl.edu/> or by phone:
1-800-226-1764 (Visa and Mastercard accepted).

Best, Constance. 2002. America's private forests: Challenges for conservation. *Journal of Forestry*, April-May. pp 14-17.

Hawbaker, J.M. "Ownership structures for your farm or ranch: Some basic considerations." Risk management workshop series, 2006. North Central Risk Management Education Center, Center for Rural Affairs, University of Nebraska. 1 May 2008.
<http://www.cfra.org/files/BusinessStructure.pdf>

Main, M., K. Annisa and M. Hostetler. 2006 (rev). Conservation options for private landowners in Florida. CIR 1441. Coop. Ext. Serv., IFAS, University of Florida, Gainesville, FL. 26p.

McEvoy, T.J. 2004. Planning the future forest. *National Woodlands Magazine*. 17(4). pp 10-12. [updated to Fall 2006].

References

Anon. "Chapter 12: Form of forest land ownership and business organization" National Timber Tax Web site. 6 May 2008.
<http://www.timbertax.org/publications/aghandbook/pdf/ch12.pdf>

Bentz, C.J., M. Green, R. Irvin, C. Landgren, C. Lynch, S. Watkins and B. Withrow-Robinson. 2006. *Ties to the land: Your family forest heritage*. Oregon State University, Corvallis, OR. 76 p.