Section One:
Developing a Vision for the Future

Farm Transfer Planning: A Suggested Definition

Farm Transfer Planning. *n.* A process of decision-making that protects your land's agricultural and forest production while preserving family relationships and enhancing community development.

If you are to really tackle developing a plan for your farm's future, the above definition covers the essential bases. The concepts explored in this workbook go beyond simple estate planning, which is merely the distribution of what you own when you die. Most folks do not like to think of their own death, and are often less interested in discussing it. Therefore, better to use the word "transfer" (as in farm transfer, or even wealth transfer), mostly for the fact that transfer is about change in who farms, who owns, and who manages your land. Your and your family's ability to manage this transfer during your life is what the future of your farm is ultimately about.

First, farm transfer planning is indeed a ***process***. As Dwight Eisenhower once said, "The Plan is nothing, but Planning is everything." What he surely meant was: things will change, but if we put in the work to gather and evaluate information, this will enable us to make better decisions as matters change. Farm transfer planning is the same idea. It is not a passive event, and there is no magic tool or silver bullet that will make it easy or issues go away without addressing those issues. It is the act of planning that makes the future you want more likely.

The planning process supports your true legacy: preserving your family.

Your process supports better ***decision-making***. The process you employ to methodically gather information about what you and your family wants for the farm and your own lives, what your farm is good for (if you need income from it), and what you own and the extent of its value empowers you to choose among the tools available to you. Legal tools can be executed to minimize foreseeable risks and accomplish articulated goals, but as things change in life, the outcome those tools were designed to produce may no longer fit the situation. In other words, it does not end with the execution of a will, no matter how good you think that will expresses your desire at the time your attorney writes it. If a will distribution scheme needlessly risks a farming heir's long term tenure on needed ground, the will cannot change itself.

Your decisions should ***reduce risks to productivity*** of the farm. If it is important to you and your family that your farm remain in the family and/or in production as it passes to the next generation, your decisions should allow for a smooth transition in the use and management of that land. If a family member is farming it, he or she will need to know their use of the land is a secure resource for their farm enterprises. At the least, your heirs will need to know who is in charge of renting it, or paying taxes on it, or harvesting timber, all basic land management decisions and tasks.

This planning process supports your true legacy: ***preserving your family***. How well your children get along after you are gone, and how they remember the example you (Mom and Dad) set for them are a true legacy. Keeping land in a family where the family relationships are deteriorating defeats the purpose of keeping wealth in the family, and often this leads to loss of land and wealth. It certainly leads to stress on the farmer or manager of the land. In my experience, nothing leads faster to a damaged family than a piece of land and differing ideas on what to do with it.

Finally, how a family plans for the future use of their land depends in some measure on the ***community development*** around them. Not just in terms of development pressure, but what programs and resources (such as marketing infrastructure) are available to them ultimately depends on how many farms avail themselves of these resources. For example, the cash provided by a purchase of development rights (conservation easement) program will greatly influence the direction a family takes with its farm. Local agricultural economic development initiatives, farmers markets and other local distribution channels all depend on farmer and landowner participation. In a word, the relationship is symbiotic. Community development around agriculture depends ultimately on the aggregate of decisions individual families make about their farms.

Farm Transfer Planning: How to Begin

Editor's note: Throughout this workbook, emphasis is placed on issues surrounding the transfer of a farm to the next generation. Many of the narratives and worksheets in this book are tilted to assist with that goal. As noted elsewhere, transferring a farm to keep it in production may not be your goal or you may find it otherwise impracticable. So for now, we will simplify the focus to "estate planning," an integral and basic part of farm transfer.

The narrative below is an edited piece originally published as a pamphlet titled *Estate Planning: Where to Begin,* under the direction of Theodore A. Feitshans, J.D., Extension Specialist, Department of Agricultural and Resource Economics, College of Agriculture and Life Sciences, N.C. State University, and is reproduced here with permission.

We usually take life for granted. Few of us choose to think about the cold reality of death. Nevertheless, you owe it to yourself and your family to plan how your property will be used after your death for the benefit of your loved ones, charitable interests, and other beneficiaries.

The farm transfer process begins with a series of questions that must be considered.

- Who will care for your minor children or aging parents?
- Will the family business be continued?
- If you own family land as farm or forest, does your family wish to keep it?
- Will they be able to do so?
- Will your spouse be able to live comfortably on what you leave behind?
- Will estate taxes consume your family's wealth?
- Are there other federal, state, or local taxes, or other expenses, that should concern you?

All of the concerns raised above can be addressed with your plan. Each plan is unique to family needs and resources. Estate planning is for everyone, not just the elderly or rich. The topic of death is not pleasant. But if you avoid planning your estate, you have unconsciously made some important choices. Your family will have to live with them.
Couples with young children who fail to plan their estates have chosen to have a court decide who will raise their children. Parents in a family business who fail to plan their estates may impair the likelihood that their children will succeed in the business. Virginia law provides for the distribution of estates if you die without an estate plan. It is quite likely that the plan set out in state law is not what you want for your family, nor what they would likely choose.

People neglect their estates because "they don't have time" or they think it's "too expensive." But there is no time better spent than planning to protect your family's future. Moderate expense invested in professional assistance is insignificant next to the expense your estate could incur in litigation, taxation and red tape. It's not all about money—family quarreling, confusion and hardship can and does occur when loved ones die without an estate plan. Many families fight and become estranged, even for generations, over the assets of poorly planned or unplanned estates.

What Is Estate Planning?
Estate planning is a set of steps for effective management, enjoyment, and disposition of your property at the least possible cost, both in life and at death. Making a will is a crucial part, but planning doesn't stop there. Estate planning involves a review of your property ownership, insurance needs and your family business structure. This task is simplified into four basic steps:

1. Develop your vision for the future.
2. Determine needed future income.
3. Gather information on your resources.
4. Execute the instruments and agreements needed to fulfill your vision.

People often complain that seeking professional advice costs too much. Expense can be minimized if you take the initiative on the first three steps in this process prior to the first meeting with your chosen professional(s). Time is valuable for attorneys, tax professionals, and other experts who are needed in successfully planning your estate. Take the initiative to conduct family discussions, set clear objectives,

and compile the information that these professionals will need before you employ key professionals. This will save money. Most of the money spent on estate planning often represents charges for resolving these initial issues. These are things you can handle before your first meeting with a professional. If your family finds that its members cannot agree on key issues, you may wish to hire a mediator or other professional counselor.

Moderate expense invested in professional assistance is insignificant next to the expense your estate could incur in litigation, taxation and red tape.

Begin the dialogue

Many estate plans never get written because death is a sensitive subject. Adult children don't want their parents to think they are greedy or controlling. Husbands and wives don't want to give the impression that they don't trust their spouses to look after them. And elderly parents often prefer not to think of old age and death at all. As one woman put it, "My father thinks that to make a will is calling it quits. After he draws it up, he may as well crawl away and die."

There is no easy way to begin a discussion on estate planning. One approach is to use this workbook as a springboard. Estate planning books, magazine articles, and seminars in your community also offer natural icebreakers. Often the bad experiences of a family in which someone died without a good plan will start the family thinking. Once the topic of planning your estate has been broached, it should be easier to discuss concerns and goals. Tough choices often must be made. If you don't actively make decisions now, you abandon your right to decide. No one else can plan for your family like you can. Take a deep breath and begin.

Each person's estate is his or her own, and there is no legal requirement that you discuss your plans with anyone else. It is prudent, however, to have these discussions with those most affected by your estate plan. If one of your objectives is maintaining the family farm or business and you do not have these discussions with all family members and other business associates, the farm or business could fail after your death. Successful discussions do not begin over the dinner table or over the holidays because these times can be highly emotionally charged. Gather family members together in a neutral location at another time of year for the specific purpose of having this discussion. Consider the use of a professional counselor to help facilitate the discussion. Some state extension services are associated with farm transition networks or other nonprofit groups who can help with this process, often without charge or for only a modest fee.

Revisit Your Old Plan

Suppose you drew up your will and "put things in order" several years ago? How often should you update your estate plan? Although you may change your will whenever you wish, there are three basic reasons to consider updating your will.

- There has been a change in your life.
- There has been a change in law.
- You have changed your mind.

You should review your will periodically to see if it needs updating. Events that may trigger the need to update your will include the following:

- Marriage or divorce.
- Birth of children or grandchildren.
- Death of a loved one.
- Move to a new state.
- Major change in financial circumstances.
- Changes in the law (taxes, probate, trusts, etc.)
- Beginning or concluding a business.

Your professional team will be glad to help you review and modify your estate plan periodically to keep it current.

Planning for your children and family members after your death can be stressful, but it may be one of the most important decisions you will make. Planning your estate requires your time and willingness to seek essential guidance and help from professionals. Estate planning requires time to gather essential information and coordinate with different professionals. It is in your best interest to begin outlining your objectives and planning how to follow through as soon as you can. If you have currently decided to initiate this process, consider scheduling a family meeting and getting some feedback to begin

Starting with What You Want

A farm owner's personal values will ultimately drive farm transfer decisions, and whether another – often younger – farmer will have the opportunity to farm that land. Therefore, the first question you should ask yourself "What do you want to see happen to your farm?" This question comes before considering the situation through any lens of critical analysis of goals, resource evaluation, and the laws that govern the transfer of wealth.

This question – what do you want? – like the farm transfer process itself, touches on a lot of seemingly different things that one may find important: keeping family harmony, passing on a farming tradition, retaining hard-earned wealth for heirs, and sometimes, simply not paying taxes to the government. Sometimes families find that their collective wants for the future of the farm, while not necessarily conflicting with each other, will nonetheless require modification and compromise.

To develop their vision for the future, it's important that all family members share what they want to happen to the farm.

For example, you may simply *want* the farm to "stay in the family." What do you mean by this statement, and more importantly, *why* is this important to you? Often that "why" is simple family heritage. Many families in the Southeast can trace their lineal ownership back to a grant from King George III, and perhaps this bestows an obligation on each generation holding title to the land throughout the years to pass title to a family member, and the desire to pass on the land to lineal heirs to continue a tradition will drive many owners in their decision-making. Will it satisfy this obligation if one lineal heir gains title to the land? Or a non-lineal family member (i.e., a nephew or niece) If this is done, what wealth will be transferred to the other heirs?

There may be another value that drives your decisions: wanting your children to get along with each other after your decisions on the farm have been made, and ultimately carried through either by sale, gift or inheritance. To accomplish the desire that the farm land stay in the family, it may be impossible to divide it equally among heirs. Indeed, as noted in Section Two *How Do You Own Your Property?*, creating ownership interests among multiple heirs may endanger the ability of an heir to effectively manage and earn income from the land. But with land as the highest value asset in most families, there are often few other assets to balance the overall estate equally among all the heirs.

When transferring a farm intact across generations, heirs are more often treated fairly than equally. "Equal" normally means an equal distribution of dollar value of the parents' wealth. "Fair," on the other hand, considers the totality of the circumstances in making distribution decisions where the heirs' absolute right to the wealth is modified in pursuit of certain goals (such as securing a farming heir's access to the land).

To develop a vision for the future of the farm, it is important that all family members share what they want to happen to the farm. Sometimes the response to such an exercise is apathy. If the apathy about the future of the farm comes from both Mom and Dad -- "You kids figure it out" -- it is probably best that their estate plan divides up the assets -- including the landholdings -- equally. Nonetheless, your goals for the farm - perhaps that it remain in production - may cause you to consider transferring it outside the family.

The worksheet *Rating Family Values* consists of a number of statements to get you thinking about what is really important to you, and more importantly, why it is important. Each statement has a number value attached, to rank importance, to provide a framework to prioritize your values. What will make tough decisions easier for family members to process will be openness in the process, where there will be no surprises that lead to distrust and ill-will among heirs. Your answers and comments to the questions will form the basis for shaping and sharing your decisions with the family. It will also help your advisers understand which planning tools are appropriate for you. Two additional worksheets offer an opportunity to assess your comfort level with certain decisions, and a chance for Mom and Dad to sketch their vision of retirement.

The underlying theme of this workbook is that there are no easy answers. Fortunately, there are legal tools available - such as business entities and other agreements - where access to income can be assured, along with a stake in the value of the land. Fairness will lie in how decisions balance the abilities of all heirs to access that wealth in the future. Fairness is also built into your family's understanding of the distribution decisions in your farm transfer plan.

The sooner the family can gain common understanding of each other's views of "fair," the stronger the process will be. What will make tough decisions easier for family members to understand will be openness in the process, where there will be no surprises that will lead to distrust and ill-will among potential heirs and successors.

Ultimately, whatever the various motivations, all heirs must recognize that these decisions have been tackled by generations before them, and now ultimately it is the title holders - Mom and/or Dad - who must decide. In the event they cannot recognize this, you may find that the best course of action is to keep your plans to yourselves.

Managing Risk with Farm Business Transfer: The Five D's

Editor's note: At its core, farm transfer planning is about managing risk. Events that we think of as unforeseeable can occur often through no fault of our own. When they do, they alter our ability to achieve the goals we set out for ourselves. However, though we don't expect them to occur, they certainly can, and are therefore *foreseeable*. Management training of the next generation helps the next generation overcome challenges to production; legal agreements - considered long and wordy - are designed to address as many contingencies professional advisers can identify. The following is adapted with permission from an article originally published by University of Wisconsin Center for Dairy Profitability, University of Wisconsin-Madison.

Evaluating risks associated with the continuation of the farm business is the first step in developing a plan to address and/or reduce these risks. The worksheet *Quick Risk Assessment: The 5 D's* (pg. 17) is a way to identify the risks that your proposed business arrangement will face.

The following discussion about planning for these risks will provide information for you to consider in evaluating your risks and developing a plan to reduce these risks. Developing a risk management plan should begin with developing family, business, and personal goals. If you have identified these goals in the worksheets section, then you can begin the process of developing a plan to reduce the risks associated with accomplishing these goals.

There are five major events that can severely impact a farm family or a family business: death, disability, disaster, divorce and disagreements--the five D's.

Planning for the 5 D's

Sometimes in the enthusiasm, hope and excitement that accompany the establishment, expansion or transfer of a business to the next generation, we forget that even the best laid plans sometimes do not work out. Therefore, even though we may be reluctant to discuss negative issues, it is critical to discuss the cons as well as the pros of any business venture. While we cannot control the future or plan for every eventuality, exiting or entering farming is a major life decision that requires us to make provisions for events that could impede or even destroy the farm transfer or the farm business.

There are five major events that can severely impact a farm family or a family business: death, disability, disaster, divorce and disagreements--the five D's. Planning a farm transfer without providing protection against the possibility of any one of these major events is gambling with your future and your family's future, whether you are entering or exiting or modifying the farming business. Most people don't like to talk about these issues, or develop and put in writing contingency plans for addressing them.

How a family deals with foreseeable risks will likely affect the farm transfer process. For example, the operation may be able to continue if the spouse that does not provide labor to the farm business dies, but what if the person providing the major labor and/or management dies or is disabled or incapacitated for a long period of time? How long of a period of disability can the operation survive? Should there be life insurance?

Should there be disability or income continuation insurance to cover the major contributors? How can we prevent the assets from being sold off or divided in the event of a divorce? How much crop insurance, liability insurance, casualty coverage should there be? How will a major illness or injury affect the operation? Do we have enough health insurance to avoid an impact on the business finances in the event of a major illness or injury? What happens if a major disagreement results in one or more of the farm operators leaving the farm business and withdrawing farm assets?

Death

Life insurance can provide protection for families and/or the business in the event of death of one of its members. For young families who generally have higher debt and less cash to work with, term life insurance may offer an attractive and low

cost alternative to whole life or other investment protection. Term policies do not have a value except upon the death of the insured.

Younger farm members may want to carry life insurance on older members who own most of the farm assets in order to be able to continue farming in the event of an untimely death.

The premium cost may be very expensive but this may need to be one of the costs to insure the continuation of the farm business. Other options need to be discussed and planned for, so the younger generation is able to gain control of assets in the case of a premature death of older members who own most of the farm assets.

It is also important to understand that when a person dies, their assets are distributed according to their estate plan, or in the absence of one, by state law. The distribution plan may create ownership interests in the assets that make them unavailable for continued use by the farm business.

Disability

Providing for income protection will also be important in the farm business. Disability or income continuation insurance can provide the dollars to cover extra family living or hired labor expenses during the period of disability. Farming is not only a risky business, it is a dangerous occupation. Farm accidents and farm related illnesses affect thousands of farm families annually. Farming is categorized as the single most dangerous occupation in the United States. Given these facts, it is important to take appropriate action to minimize risks to the family and the farm business.

Insurance coverage can be purchased to cover people in the event of a disability. But another kind of precaution should be part of your farming operation. Prevention should be a key plan of any farm business. Prevention of farm accidents and farm-related illnesses begins with a thorough review of the farming operations, farm tasks, farm machinery and equipment, farm buildings, electrical service, watering systems, well, septic system, and farm topography. Even routine tasks should be analyzed to ensure that safety is built into every aspect of the operation.

Disaster

When we hear the word "disaster," we generally think of natural disasters like a tornado, drought, or flood. A broader definition could include any major event or circumstance which has a severe impact on the farming operation. These might include stray voltage, contaminated feed or water supply, a manure or pesticide spill, or a tort liability claim or judgment (think agritourism accident) or the call-in of a debt that cannot immediately be paid. All of which can put the operation in financial jeopardy.

Because a disaster can have such a sudden and severe impact on a farming business, it is important to consider both the insurance and prevention avenues available for your farming operation. Additionally, when at all possible, you should set aside savings or other non-farm investments which can be available to you in the event of a disaster.

Divorce

We know that death in inevitable. But divorce is something most people prefer not to talk about, or plan for. Yet, we know that as many as one out of two marriages ends in divorce. Coupled with other risks involved in farming, the potential for a divorce cannot be ignored. Facing the possibility up front can alleviate some of the uncertainty in the farming business in the event of a divorce.

When developing a business arrangement it is important to consider how to take it apart if it is not working.

It is important to have a marital property agreement which lists all assets and debts as well as all ownership and management responsibilities. You should be aware, however, that even with a marital property agreement, divorce property division rules may mean that the court will find the agreement inequitable or unenforceable. Therefore, the provisions of any marital property agreement should be thoroughly discussed between the parties and be reviewed by each with their own separate attorney prior to signing.

Furthermore, in most farming situations, at least one spouse has an off-farm job. The disruption of a marriage will necessarily remove this income stream from the farming operation.

Disagreements (Conflict Resolution)

Major disagreements may emerge over time with multiple farm families involved in a farm business arrangement. Persons and their circumstances change overtime. As younger farm personnel get married and have children, their circumstances, values and goals may become quite different than when they entered into a joint farming operation with their parents or other unrelated persons.

The hours involved in most farm operations are long which leaves little time for family. This can easily cause friction in the farm business. The management viewpoint of one member may become more divergent from other managers in the business.

Disagreements over capital allocations can cause friction between farm families. The speed at which farm assets are transferred to the younger generation can cause tension between the differing generations. The level of debt in the farm can cause difficulties. The older generation generally wants to reduce debts as they near retirement. Any number of personal difficulties may develop between persons or families involved in the joint farm business. At times this may mean some families will leave the farm business and pursue other employment opportunities. This may be disruptive to the farm business arrangement, especially when the departed member has substantial ownership of farm business assets.

All parties should know in advance what the financial implications will be when a future separation occurs. This is every bit as important as the arrangement for entering the farm business arrangement.

A plan needs to be developed at the time of commencing the business arrangement as to how multiple farm business families will sever their joint farming operation. Generally a plan is needed where departing members receive only part of their investment at the time of severing the joint farming operations. When developing a business arrangement it is important to consider how to take it apart if it is not working. If it is organized in a way that makes it difficult to take apart, it may be best to consider alternative arrangements.

Worksheet 1.1

Quick Risk Assessment: the 5 D's

Each family member should use this worksheet to preliminarily assess the 5 D's and how they could affect your *current plan* - or simple goals - for your future and the future of your farm. Start by keeping in mind the business, family, and personal goals of your family members. List the present plan in the column titled "Current Risk Management Plan", for example, a document you currently have in place like a will. Next list the risks not addressed in the next column. Rank the possibility of this risk occurring in the next column. Then consider the impact on meeting the identified goals if this event were to occur. After completing these columns the 5 D's rank the risks in priority from 1 to 5 or as high, medium, or low. The last step is to identify steps to take to manage these risks. These steps become the building blocks of your farm transfer plan. The plan should be reviewed and updated as changes occur in the business or the people involved, and as goals change.

Risk	Current Risk Management Plan	Risks not currently addressed	Probability of risk at present	Impact of event on current plans	Steps needed to manage risk
Death					
Disability					
Disaster					
Divorce					
Disagreement					

Adapted from The Center for Dairy Profitability

Improving Farm Family Communication

We advise users of this workbook - particularly Mom and Dad - to seek input from family members in order to develop a shared vision for the future of the farm. At the end of the day, Mom and Dad must decide what to do with the farm assets. Many times these decisions cannot be reached without input from other family members. Indeed, as we say throughout this workbook, keeping a farm in the family requires agreement between generations, which cannot be achieved from one side of the generational equation.

Often where there is open discussion about the future of a family business - and more specifically, the value of its land asset - there will be differing opinions on how it should be used or otherwise treated. Rather than hope that everyone will be in agreement with what is proposed for the farm, you should accept that differing opinions will be part of this process. If you do, perhaps when decisions are ultimately reached and documents executed, everyone will know where those decisions came from and be more likely to support them.

Keeping a farm in the family requires agreement between generations, which cannot be achieved from one side of the generational equation.

If one can suppose that conflict leads to stronger agreement, communication is the fire that forges the end product. It may be helpful to think of communication as a loop, from sender to receiver and back again, encompassing six elements: sender, message, receiver, channels, feedback, and effect. The sender sends a message through a channel -- verbal, written, or non-verbal -- to a receiver, who will then respond through the same or another channel (or not respond, itself a response). When received, the sender can determine if the message was understood, or otherwise process the effect of the response. The loop requires diligence among participants to avoid its breakdown or otherwise misperceived communication throughout, which of course entrenches disagreement (the biggest of the Five D's when it comes to farm transfer).

Therefore, a few common sense ground rules should be adhered to by all parties so that the process does not break down. Here are a few items to keep in mind:

1. **Every message can be misinterpreted.** This is the situation where a sender has sent the message, but the receiver is unclear as to its meaning. If the receiver does not respond, the sender may either get the message that their position is understood, or that they are being ignored. At the get go, all parties should agree that non-response to their position is not an affirmation that their position is correct, or otherwise agreed to. Even a non-response can be interpreted wrongly, or a non-verbal response (if in person) such as a furrowed-brow will create its own message. All parties should adopt a stance of prompt feedback, even if it is to simply acknowledge receipt of the message and let the sending party know if they need time to consider or gather more information.

2. **Never utter the word "non-negotiable"**. Sometimes, this is the first thing someone will say to draw their "line in the sand." It is a bullying technique that by its very nature destroys trust, and carries with it no information useful in developing mutual agreement. It sends the message that what anyone else has to say is valueless. Try to avoid using it at any point in a family discussion.

3. **Be honest about your motives.** Nothing can be more frustrating than flowery language or idealistic imagery in a discussion about land and money. One reason I encourage family members to explore their own personal values about conservation and farming is to help folks be honest with *themselves* about what they want to see happen to the farm. Until this happens, explaining why you want something will be very difficult if that explanation is needed to educate other family members about your own position.

4. **Pay attention to listening skills.** Good listening skills can be improved by 1) simply making the decision that you will listen, 2) refraining from interrupting or immediately reacting (verbally or with body-language) to what is said by the speaker, 3) providing some form of positive feedback that you understand what the speaker is saying, maybe even to the point that you understand why they have their position. All of this requires self-discipline.

5. **Communicate in an environment without distractions.** People are busy, and it is difficult to set aside time away from everyday tasks and deadlines. However, distractions that interrupt the back and forth flow of communication leave important questions unresolved, and often these are hard to revisit if progress was indeed being made between the parties. Family meetings, meetings between business partners, meetings between landlord and tenant should all be held in an environment where foreseeable distraction is minimized (i.e., young children, a busy farm shop, etc.)

6. **Try to speak the same language.** This can be particularly challenging in farm planning situations, where not all parties to the discussion are farmers. Farm issues and terminology can get very technical, particularly when discussing yield conditions, input requirements and costs, equipment depreciations, commodity markets, etc. This can equally apply to non-farm participants that have their own professional expertise, perhaps in law or investing. As best as possible all parties should realize that each does not necessarily possess the same expertise and be prepared to explain the rationale that forms the basis for their opinions or positions.

With those tips in mind, it has been suggested by Larry Hoover, professor of Washington & Lee Law School and known as the "Father of Mediation" in Virginia, that there are three dimensions where disagreement can develop. First there is the **substantive**. This is the nuts and bolts, the detailed outcomes of decisions, such as ownership, management, organizational structure, timing, taxes, division of income and wealth (often the details relating to right to income from, authority to manage, and division of equity in that wealth). The second dimension is **relational**: people's feelings, emotions and differing perceptions of themselves and family members, that often cloud rational decision-making on the substantive issues. The third dimension can be summarized as **process**. Often disagreement can flow from perceptions of fairness in the decision-making process, whether there is adequate gathering and sharing of information and alternate viewpoint, perhaps where certain relationships create a perception of inequity.

Mr. Hoover has written: "The dynamics of disagreement is often predictable. What can start as a disagreement in any of the three dimensions described above can quickly turn to antagonism. Built into such disagreement are questions and suspicions about the other's character, intentions and motives." As suspicions are shared among the like-minded, and not those we are suspicious of, silence broadens the gap and the ultimate cost of resolution. As noted earlier in this workbook, in the complex discussion about the future ownership of land, it is ultimately counterproductive to outsmart your siblings by being less than forthcoming about your motives.

Often the relational may be damaged by decades of sibling rivalry. The substantive may equally prove elusive due to differing fortunes throughout the lives of children reaching adulthood and having families of their own. In this instance, perhaps it is the process through which family can find common ground. Indeed that is the focus of this section of the workbook, since rarely we can do little to alter the history that underscores the other two elements (i.e., relationships and wealth needs).

In closing, a workshop held in Albemarle County, Virginia a few years back offered an interesting visual demonstration about communication. Mr. Hoover was presenting on this subject before an audience of farm families. On a whiteboard, he drew a table with a stick figure on either side, noting that this is how we often view discussions over an issue, with two sides of negotiation. He then redrew the picture with the stick figures on the same side, looking at the problem on the table. To paraphrase Mr. Hoover:

> *Negotiation is the predominant conflict resolution process, but unfortunately the adversarial, win/lose model imported from the legal system is too often adopted. What's needed is an interest-based, collaborative process, the important component of which is mutual empathetic listening to understand the interests, needs and priorities of others, while gaining clarity about our own. We must also search for creative additional value to bring to the table, which may depend on differing needs, valuations or time preferences, and use this information to feed a brainstorming of possible solutions and evaluating of options.*

His point: the more effort invested in addressing the issue of farm transfer as a shared family interest, the less energy (and expense) will be expended on negotiating the outcome from identified positions.

WHEN FAMILY BUSINESS TRANSITION MAKES NO SENSE

***Editor's note*:** Dr. David Kohl, this article's author, is one of the pioneers of working with and educating farm families on succession issues in the southeast and nationwide. The article below was originally published in Virginia Tech's *Horizons* magazine.

Some time ago, while addressing a group on modernization and expansion of the farm business, I was asked, "How successful have you been at steering students away from unprogressive operations?" My initial response was that I had not been very successful, but further thought shed a different light.

Planning the future of the family business is not simply a one-time event. The world is too complex and the family's goals and philosophies change over the business and personal life cycle. When a young person or partner is considering entering a business, the following are some key considerations. If your response to many of these points is "no," there is a higher probability of possible problems out of the gate and down the road.

Planning the future of the family business is not simply a one-time event. The world is too complex and the family's goals and philosophies change over the business and personal life cycle.

Specific Responsibility and Accountability
One of the first signs of transition challenges is when the partners or older generation fail to define roles and responsibilities in the business. Often the young person is lured into the business and becomes a "Jack of all trades." However, they stay in that employment development path forever. A general rule is that the new partner or younger generation should be making some management decisions within a six-year period.

Lack of Outside Experience
I frequently have the opportunity to observe a young person just out of high school who loves agriculture and the area, then goes away to school, becomes disenchanted and quickly returns to the farm and family nest. Usually within two or three years, this person gets married. The business is generally not sufficient size in cash flow and the daughter or son-in-law becomes upset. The results are predictable. The younger generation usually leaves the farm or gets divorced, and family blow-up ensues. Solution: get experience away from the business for 3 to 5 years.

Size and Efficiency Counts
Before a partner returns to a business, determine the additional or incremental earnings required for entry. If it is insufficient, the spouse must be willing to make up the difference in non-farm earnings to maintain a standard of living. Here are some interesting perspectives. If a young person desires a family withdrawal of $40,000 annually, including benefits, the following productive units may be required: For a dairy with an average net income of $500 per cow, the increase would be 80 cows. Deviations in net income per cow increases the range to 200 cows for inefficient operations to as low as 50 additional cow units for highly efficient dairymen. Shifting to crops if the net income per acre was $100, the additional productive acres would be 400. Lower it to $50 per acre, and then an additional 800 acres would be required.

In a cow-calf operation, if the cow unit nets $125 per herd, a full-time partner without additional off-farm earnings would require another 300 to 350 cows. These are just a few of the scenarios that illustrate how the dollars and cents relate back to production numbers. You do the math on your operation.

Grandma's and Grandpa's Estate Plans
Often in the agricultural community with tight knit extended families, grandparents of the Great Depression generation are very tight-lipped about provisions in their estate plans. To compound this problem, you perceive that Uncle Jim and Aunt Betty who have nothing to do with the farm will share in the estate. Failure to have open and clear discussions of family business estates is a sign of potential problems. The old saying is, "Either pay now or pay later!" To carry on the family legacy, open communication is the key.

Decisions Made on the Run
Are the partners too busy with the everyday $100 decisions and overlook the $10,000 a day aspects such as transition planning? Is your spouse, who is not immediate family, not invited to family discussions? If this sounds like your family, you're not alone. The above scenario gets caught in "episodic" transition planning, i.e. a major event such as death of a key partner, leads to an emotional and traumatic fix to a neglected business practice. This usually results in the loss of money, family harmony, and time. "Life cycle" or disciplined planning is critical in any family business. Periodic time-outs or short sabbaticals from the daily grind are essential to maintain continuity and energy in the business.

Guilt Trip
You go away to college. Mom and Dad call to tell you the farm is going down fast. They can't get away for vacation or time off. Your best cow is sick. This scenario has played itself out numerous times in my teaching career. My best advice is to stay in school. If Mom and Dad are good managers, they will work the problems out.

21st Century Business
Is the business and location you are returning to an opportunity to establish productive roots for an extended period of time? Does it have the soil, water, and markets that make it viable? Are you near a locale that has the infrastructure, schools, hospitals, and shopping areas that make it appealing to the early 21st Century family? The old rule is that young people like to be located within a 45-minute drive of the mall. A newer rule may depend more on availability of high speed internet in the area where you want to live and farm.

Developing Goals and meeting Objectives

***Editor's note*:** A key challenge faced by farmers and landowners is clearly articulating their goals and objectives to their professional advisers. Busy practitioners are challenged to spend the time with clients helping them - and their families - explore their goals and objectives, and identifying often hidden and potentially conflicting goals. The more work that can be done to articulate goals and objectives before meeting with advisers, the better they will be able to help you. Indeed, the many decisions of farm transfer are built on a clear understanding of a shared vision. This can only be achieved by the exercise of writing down goals and objectives. Generally, you should think of goals as long term (5 to 10 years) and objectives as those shorter-term achievements that take you to your goals. Tasks are your specific "things to do," and though you may not know exactly the tool you need to accomplish the objective, your professional advisers will help you with those tasks. The worksheets following should provide a platform to get you and your family started. The following list has been edited and reformatted from *Estate Planning: Where to Begin* by Ted Feitshans, et al, NCSU.

Your goals and objectives for your estate are unique. Likewise the objectives of your family members may be different from yours. You, the owner of the farm, will ultimately create the will and make the estate decisions. Nevertheless, discussion of your goals and the desires of family members and business associates can reduce the likelihood of strife during the transfer.

Talk with your family, and list their goals, objectives, concerns, and desires. Does your child expect to take over the family business? Do the other children feel apprehensive about being nudged out of the estate? Do your relatives feel comfortable being named guardians of your minor children? Does your spouse agree that your assets should be distributed to your children from your current or previous marriage? Does your spouse feel confident that he or she can manage the property after your death?

After you have a feel for your family's goals, sit down and list your individual objectives. Rank your objectives in order of importance. Consider the bullet list below as a guide. Once your objectives are clear, your estate plan can be tailored to meet your particular needs.

The list below reflects common goals followed by objectives to reach those goals associated with farm transfer and estate planning. This is not a complete list. You and your family's goals and objectives are as varied as the individuals who have estates to plan. Not mentioned are the less laudable objectives that can include using one's estate plan to manipulate friends, relatives and business associates, or to take revenge. Be careful while planning your estate to avoid unforeseen consequences that may result in litigation over your estate after your death. If you fear your estate will be embroiled in controversy, be sure to alert your financial counselor or legal adviser.

A sampling of suggested goals, objectives and associated tasks:

GOAL: Provide security for your surviving spouse.

OBJECTIVE: Relieve your surviving spouse of management responsibilities.

OBJECTIVE: Retire at a specified age (for example, 50, 60, or 70).

OBJECTIVE: Provide security for both spouses after retirement.

TASK: Provide management flexibility for your surviving spouse.

TASK: Make advance decisions about end-of-life issues including whether to terminate life support, whether to use alternatives such as hospice care, and whether to use certain medical technologies.

GOAL: Assure continuity of a farm, ranch, or other businesses.

OBJECTIVE: Protect business associates and the business from adverse consequences of your death.

OBJECTIVE: Minimize estate and probate taxes on the estate of spouse who dies first.

TASK: Review the current operation and ownership of the farm, ranch or other business, and restructure as needed to promote sound business management.

TASK: Purchase investments and insurance that minimize the financial consequences of your incapacity or disability.

TASK: Transfer property during your lifetime by means of an installment sale.

TASK: Provide for the payment of the estate's taxes, debts, and expenses.

TASK: Transfer specific property to specific heirs or others.

TASK: Nominate a health care agent to make health care decisions in the event of your incapacity.

GOAL: Transfer as much of your wealth as possible to your chosen heirs.

OBJECTIVE: Minimize other taxes, including income, property, and gift taxes that may adversely affect you, your business or your heirs.

OBJECTIVE: Provide for coordination between federal and state taxes to minimize the overall tax burden.

OBJECTIVE: Provide financial and physical security for an incapacitated heir.

TASK: Provide for charitable bequests to your favorite charities or other organizations.

TASK: Reduce income taxes through disposal of income producing property during your lifetime.
Minimize expenses associated with settling an estate.

TASK: Use trusts to prevent financially irresponsible children from dissipating their inheritance.

TASK: Nominate guardians or designate trustees for minor children, or both.

TASK: Nominate a guardian or draw up a durable power of attorney and nominate an agent in the event of your own disability.

TASK: Nominate executor(s) of your estate.

GOAL: Provide equitable (although not necessarily equal) treatment of children.

OBJECTIVE: Make gifts to heirs and others during your lifetime.

TASK: Transfer nontitled personal property of significant emotional value but little monetary value in a cost-effective manner that satisfies heirs.

Worksheet 1.2

Planning the Family meeting

Meeting with family to discuss important issues relating to the farm is crucial to meeting your goals for its use. This worksheet is to help you get everyone to the kitchen table, with an agenda to guide the discussion in a business-like fashion.

Target meeting date: _____ Place: _____

Time start: _____

Persons needed to attend:	Date contacted:	Best dates to attend:

Proposed agenda:

_____

_____

_____

_____

_____

_____

_____

Suggested preparation tasks	Person(s) responsible	Target completion date
1.		
2.		
3.		
4.		
5.		
6.		
7.		

Worksheet 1.3

Rating Family Values

To start your family discussion, read and rate the questions below. Rate the importance of each item below, with 1= not important, 2 = somewhat important, and 3 = very important. Use these ratings as a basis for your family discussion. Copy and have each family member complete to help get a clearer picture of what is most important to each in the farm transfer process. Conflicting values will need to be addressed at some point.

I want the farm to remain in our family's possession. *Why is this important/not important to you?*	1	2	3
I want the farm to continue to be farmed after I/we retire. *By who?*	1	2	3
I would like to remain physically involved in the farm after I/we retire. *Why is this important/not important to you?*	1	2	3
I want our children to have the opportunity to continue management of the family farm. *In what capacity?*	1	2	3
I would like the division of farm property to be equal in dollar value among our children.	1	2	3
I want the division of property among our children to be fair (not necessarily equal).	1	2	3
I want to give financial help to our children who choose a farm career.	1	2	3
I want to have the financial resources to do new things after farming. *What do you want to do? (see Sketch Your Lifestyle Plan)*	1	2	3
It is important that our children agree with our plans for the farm's future. *Why is this important/not important?*	1	2	3
I would like to maintain some measure of financial control over the farm while I am alive. *Reason:*	1	2	3
I would like to be involved in the decision-making of the farm throughout my life. *Reason:*	1	2	3
I want to receive what the farm is worth when it is transferred. *What is your farm worth to you? (E.g. full market value?)*	1	2	3
I want our children to play a part in the decision-making for the farm's future. *Why is this important/not important?*	1	2	3
I would like everyone in the family to be satisfied with the plan for the future of the farm.	1	2	3
It is important to me that our children's requests regarding the farm transfer be honored.	1	2	3

Worksheet 1.4

Rating Your comfort level

It is a given that risk tolerance differs between generations. The senior members of the farm family are quite justified in their concern about protecting what they have, and confidence in their own ability to manage resources to meet their own needs sometimes eclipses their ability to transfer management to the next generation. Likewise, the younger members can see the necessity that their ideas and energy be put to work earlier to grow and secure their income interests. Agreement is not easy, but exposing risk tolerance levels can help each generation understand the other and identify strategies to manage risk. The table below contains a list of possible actions for your farm during/after the farm transition process starts. Please rate your personal level of comfort for each of these actions on a scale of 0-10 (Zero indicates you are very uncomfortable with taking that action; 10 indicates you are extremely comfortable with taking that action). Each member of the family that is interested in managing the farm should fill out this form and compare. Add your numerical responses, and divide by eleven (11), the resulting figure is your "risk basis" of how far each of you have to go in reaching a consensus. Use each statement above as a platform to discuss your ideas on changes you would make in management of the farm resources.

Expanding the size of the current operation	1	2	3	4	5	6	7	8	9	10
Reducing the size of the current operation	1	2	3	4	5	6	7	8	9	10
Taking on added debt to expand	1	2	3	4	5	6	7	8	9	10
Adding new enterprises	1	2	3	4	5	6	7	8	9	10
Eliminating one or more enterprises	1	2	3	4	5	6	7	8	9	10
Making dramatic changes to the operation	1	2	3	4	5	6	7	8	9	10
Taking more time away from the operation	1	2	3	4	5	6	7	8	9	10
Increasing the amount of labor you provide to the operation	1	2	3	4	5	6	7	8	9	10
Increasing your managerial responsibilities	1	2	3	4	5	6	7	8	9	10
Relinquishing managerial responsibilities	1	2	3	4	5	6	7	8	9	10

Worksheet 1.5

Sketching Your Lifestyle Plan

As the family discusses the long term future, it will be helpful for both generations to sketch out what they would like to do as their working lives wind down or responsibilies increase. In farming, retirement can be a vague concept, as it often simply means transitioning to less labor, management, and risk intensive activity. Nevertheless, this exercise may serve to help in situations where parents are looking to articulate how they would like to spend their time away from farm work and management to make room for use of the land by another family member or tenant. Likewise, the younger generation can use this excercise to think about time they want to spend "off the farm." Though space is limited, jot down a few ideas in the grids provided, and use other paper to further explore your ideas.

Activities	What will you do and where will you do it?	How much time per week? (or which months)	Related expenses (dues, clothing, travel, material)	How will your health affect your planned activities?
Farm work				
Involvement in organizations (church, Farm Bureau, etc.)				
Second career				
Special interests and hobbies				
Travel				
Visiting with friends and family				

(Adapted from *Business Planning for Farmers: Planning the Late-career, Retirement-mode Years*, Midwest Plan Service, 2003)

Worksheet 1.6

Estimating Income and Expenses

Use this worksheet to estimate your annual living expenses. This is useful to get a real grasp of your retirement income and expenses, or if not nearing retirement, your annual living and income needs.

Part I: Income	Current	Expected
Wages (Annual)		
Social Security		
Pension/IRA/401K		
Social Security		
Net Farm Income		
Other Business Income		
Rent/Lease Income		
Conservation Program Income		
Forestry Income		
Taxable Interest		
Tax-Exempt Interest		
Stock Dividends		
Annuity Payments		
Other (e.g. alimony)		
Total Gross Income		
Estimated Taxes		
Federal		
State		
Medicare/Social Security		
Total Taxes		
TOTAL NET INCOME		
Part II: Expenses	**Current**	**Expected**
A. Housing		
Gas/Oil/LP		
Electric		
Real Estate Taxes		
Mortgage Payments (P+I)		
Home Equity Line		
Home-Owners Insurance		
Rent		

Expenses Cont'd	Current	Expected
Homeowner dues		
Water/Sewer/Garbage		
Telephone		
Maintenance and Repairs		
Lawn Care/Cleaning		
Miscellaneous Household		
B. Food/Clothing/ Transportation		
Food/Groceries/Supplies		
Clothing		
Laundry/Dry-cleaning		
Auto Loan/Lease		
Auto Insurance		
Gasoline		
Auto Maintenance/Taxes		
Public Transportation		
C. Discretionary		
Charitable Contributions		
Movies/Concerts/Dining		
Recreation/Vacation		
Gifts (birthdays/holidays)		
Children sports/lessons		
Pet Veterinary		
Cable Television/Internet		
Total Expenses		
TOTAL NET INCOME		
(less)		
TOTAL EXPENSES		
(equals)		
TOTAL DISCRETIONARY INCOME		

Worksheet 1.7

Setting Goals and Objectives

Use this worksheet to write down your long-term goals, what you want to do over the next ten years. Then take a shot at drafting shorter term objectives you think are necessary to achieve these goals. Try as best you are able to separate your personal goals and your goals for the management of the farm (ie. your involvement in the income the farm produces, passively or as a family farm business). Make copies of this sheet and have each family member fill it out for discussion at your family meeting.

Long Run Goals (5 to 10 years)	
A. Personal	
1	
2	
3	
4	
5	
B. Farm, other business or career	
1	
2	
3	
4	
5	
Shorter Term Objectives (12 months to 2 years)	
A. Personal	
1	
2	
3	
4	
5	
B. Farm, other business or career	
1	
2	
3	
4	
5	

Worksheet 1.8

Reconciling Priorities

Use this worksheet for summarizing the discussions and agreements reached in a family conference that reviews and discusses the objectives and goals from the "Setting Goals and Objectives" worksheet filled out by each family member. Try to focus in on the most important goals and objectives for each family member, and identify the common ground and where potential conflicts exist. These of course will need working out.

Have each family member rank their top 2 longer-run goals	
Name	Brief description of goals
	1.
	2.
	1.
	2.
	1.
	2.
	1.
	2.
	1.
	2.

List the SHARED goals and note whom they are shared by

List the potential CONFLICTING goals identified above

Worksheet 1.9

Turning Goals and Objectives into Action

Now that you have identified longer term business and personal goals in the previous worksheets, and hopefully met to reconcile priorities among each family member's goals, use this worksheet to further identify the actions steps for each goal and objective, followed by a person responsible and when the tasks should be completed. Task deadlines should be set in advance of a next scheduled meeting.

Goal	Objective	Action Steps	Person(s) Responsible	Deadline

This layout was adapted from Wise, D.K. and Sneed, C.T. Retirement Planning: Realities and Resources. Chapter in Planning Today for Tomorrow's Farms. The University of Tennessee.

Notes