A photograph of a woman and a child walking through a forest. The ground is covered in fallen leaves, and the trees have some autumn-colored foliage. The woman is in the foreground, walking away from the camera, and the child is further back, also walking away. The scene is peaceful and natural.

Encourage your children and grandchildren to walk the property. As the patriarch of a successful fifth-generation Tree Farm says: The best fertilizer for the ground is the footsteps of the owners.

By **CLINT Bentz**
Photos by Ned Therrien

Estate Planning:

Ensuring the Future of Your Legacy

Brothers suing sisters. Timber harvested prematurely. Families torn apart by bickering, dissention, greed and disappointment. Lives ruined by sudden wealth. Lifetimes of hopes and dreams ending in confusion, sorrow and bitterness. As a certified public accountant, I hear these stories in my office at least once a month as parents pass away and their children struggle to deal with the aftermath. I am sure that you have also seen this same thing happen to neighbors and friends, and possibly in your own family.

It doesn't have to end this way. These smart, thrifty, practical people who spent their lives building and creating this wonderful legacy for their children and grandchildren don't have to stumble at the finish line and destroy everything they worked so hard to build.

Building a successful Tree Farm and a successful family is not a 100-yard dash. It is a relay race. A successful relay team depends on strong runners working together as a unit. Where the race is won or lost is in the handoff — passing the baton from one runner to the next. If the baton is dropped, the race is over. Here I will explore ways in which you can make sure that the baton is successfully passed to the next generation.

John and Mary came into my office recently. They had spent their lives living and working on the farm they purchased from John's father when they were first married. John was the fourth generation of his family to own and work on the farm, which was originally settled in the mid-1800s. Through the years John had converted much of the farm back to timberland, and was renting out the remaining farm ground to a neighbor. Their four children had grown up on the farm, went to college and were now married and pursuing successful professional careers. The pattern for passing on the farm that John and his ancestors had used — selling the property for a nominal sum to the oldest son — is not going to work in their case. Dividing up the property is also not practical, as the remaining parcels

would not be economically viable. John and Mary also do not want to see the property sold and developed. John and Mary feel a great deal of pride in their stewardship of this family heirloom. Though they have a hard time expressing it in words, much of the meaning of their lives is wrapped up in this property. They also have a great deal of pride in their children and grandchildren, seeing them accomplish things in their lives that are truly wonderful. They wonder how their Tree Farm can fit into the modern lives of their children and grandchildren, yet at the same time they don't want this family legacy to be lost. The challenge: How to successfully pass the baton to the fifth set of runners in this race.

The first thing I had them do was discuss with each other and write down their vision for the property and the family. What were their hopes and dreams? What did they see the property becoming in the next 50 years? What did they see happening to their family in the next 50 years? What role could their property play in keeping their family together and strong? On a scale of 1 to 10, was the property a financial asset (1) or a priceless family heirloom to be protected at all costs (10)? Also, were they in agreement or did they have different visions and dreams? What obstacles and difficulties did they see that would keep their dreams from becoming reality?

The next thing I encouraged them to do was to talk about what they had written with each of their children. It is

hard for many parents to talk to their children about issues of the heart. Using this written document as a springboard helped to get this discussion going. Where were their children today on that same scale of 1 to 10? Did at least some of them share their parents' vision for the property? What, if any, were the children's hopes and dreams for the property?

Once they had a sense that at least some of their children saw the family legacy as something that was important to continue, the real work began. One of the hardest questions parents have for me is, "Why don't my children show interest in the property, and how do we get them interested and involved?" There is a simple answer to that question: The "good" children would rather have you than the property! If they have to wait until you die to become owners, then they won't think of themselves as owners because to do so would be disloyal to you.

But there is an easy solution to this problem: Create a business entity — a family limited partnership (FLP) or limited liability company (LLC) — to own the property, and then start to gift or sell ownership interests in the entity to your children.

For John and Mary, the effect of creating this entity and making small transfers to their children was immediate. Once their children were owners of the entity, they not only had emotional permission, but were now expected to start thinking and acting as owners. We could now begin to train them to take the baton and continue running.

STEPS IN PASSING THE BATON

Follow these 10 steps to ensure a successful transition to the next generation.

1. Discuss and write down with your spouse your goals and vision for the property.
2. Discuss these goals with your children, and get their feedback.
3. Create a “family business” entity — such as a Family Limited Partnership or Limited Liability Company — to own the property. Work with professionals who have experience in creating multigenerational entities.
4. Gift or sell ownership interests in the entity to your children. Discuss and decide with your spouse who will be owners, and how ownership will be shared among your children and grandchildren.
5. Have annual family meetings to discuss your Tree Farm business and share your passion for why you own the property.
6. Separate operational activities from ownership. Make sure people are being compensated appropriately for the work they do.
7. Create non-financial reasons for the family to continue to own the property. Develop the recreational potential of your land and make it easy for your children and grandchildren to come and enjoy the property. Is the property a financial asset or an heirloom? Spend time polishing up the heirloom.
8. Encourage your family to come and spend time on the land. Get them involved in the plan and design of your recreational assets. Use the property to teach life skills to your grandchildren.
9. Select and groom a person or persons to succeed you. Do this early enough so that you are around to help them succeed in their new role.
10. Take time to step back and smell the roses. Only 1 in 100 of your fellow citizens share the wonderful opportunity you have to work with your land over time and leave it better than you found it. Stay in touch with why you own the property and share this passion with your family every chance you have.

—C.B.

Creating a business entity that will serve your family for multiple generations takes some work and thought. In addition to the family dynamics involved, there are many legal and tax issues that must be considered in drafting one of these agreements. We are trying to create an environment where there are severe financial penalties for “cashing out,” both to discourage people from leaving and so that the property does not have to be sold or incur debt to buy someone out. You need to find legal and tax professionals who have experience preparing and working with

multigenerational agreements to help you draft these agreements.

Operational activities need to be separated from ownership. If a family member is working on the farm, they should be fairly compensated for that work. If they are doing something where the revenues are based on the fruit of their labor, such as farming, then they should receive the profits from that activity, and not have to share it with other family members who did not work in the activity. However, if they are using the property for their activity, an appropriate rent should be paid, so



that the rest of the family can benefit from a return on their capital.

Should your childrens’ spouses be partners? This is a highly charged issue, and the parents need to make this decision. It is not fair to ask your children if their spouses should be included. Normally, families want to keep ownership in the bloodline. With the realities of divorce, and the possibility of death and remarriage of a spouse who is included as a partner, the ownership will pass out of the bloodline over time. On the other hand, it may be the spouses of your children who have the most interest in the property or have the skills to keep the property going. You may even like the spouses more than your own children! These factors need to be weighed and this policy, whatever it is, should be written in the partnership agreement.



Is “equal” fair? All of us want to treat our children fairly, and usually that means equally. However, equal is rarely fair. Through their participation on the property, some of your children may have contributed more to the equity of the property than others. It is rare to find an “on-farm” heir that has been adequately compensated for this effort. As parents, we often provide extra financial help to our children who have problems. In effect, we sometimes seem to reward our children more for failing than succeeding. While the successful children rarely resent this during your lifetime, at death this can be a different matter.

Should all of your children be partners? Partnerships are hard work. They require willingness among the partners to get along, to compromise and to work together for the common good. We may have some children who are marching to a completely different drummer or, for whatever reason, are not going to be successful as partners together. Don't try to push square pegs into round holes. You may have to make different arrangements for some of your children.

Whenever I meet with a family, the first thing I do is tell the kids that there is no constitutional right to an inheritance. The parents who spent their lives accumulating these assets have the absolute right to do whatever they want to with them. This is an important attitude to maintain as an heir. There are good reasons to not

give your children a money inheritance. Money is toxic to many people, especially money that has not been earned. It is unusual for a large money inheritance to actually make someone's life better over the long-term, and in fact it can destroy your children. With a properly structured Tree Farm business, you are not giving a large money inheritance to your children, but rather the opportunity to continue in a work of shared stewardship of the land.

Creation of a business entity — a family limited partnership or limited liability company — paves the way to interest all generations in the Tree Farm.


Have regular, structured family meetings. If the partnership is the car, the family meeting is the gas that makes the car run. Be sure to share with each other your passion for the Tree Farm at every meeting. Why do you still own this property? What does it mean to you? Use this time to teach your children about the business of your business. Explain how you conduct a timber sale, how you hire outside contractors, how you make decisions regarding the Tree Farm. They need the benefit of your experience and to understand your values.

While cash flow is important, the non-financial reasons for ownership are the most important, and the most enduring. People do not fall in love with an occasional check. They fall in love with a place and with a family. A patriarch of a successful fifth-generation Tree Farm told me that the best fertilizer for the ground was the footsteps of the owners. You have to get your children and grandchildren out walking around the property together.

One of the easiest ways to do this is to create recreational opportunities on the property for your family. Make it easy for your city-dwelling offspring to come, visit, work, recreate and have fun. The possibilities are only limited by your imagination (and local zoning laws!). On our property we have several lakes for fishing and swimming, cabins for camping, trails for hiking and riding, a covered rifle and pistol range, a paintball range, an archery range, a park and a covered picnic shelter. We try to build or improve one project each year, and over time they really add up! My four siblings and I, along with our mother, are actively involved in designing these facilities. We also get the family involved in public tours of the property and in as many ranch activities as possible. We try to make all of this as accessible as we can, especially for the grandchildren, so that they can develop their own relationship with the property independent from us.

No successful business is run by committee. They need leadership. Tree Farms are no exception. One of the most important things you can do to ensure a good handoff to the next generation is to select and groom your successor. This means choosing the person or persons you want to run the Tree Farm, training those people or making sure they get the training they need to be successful, and helping them gain the acceptance of the rest of the family in their eventual role. This will not happen by accident. The saddest situations I encounter are families in which children either cannot decide who will be the leader or the person best suited for the job is not accepted by the rest of the family. The longer you are around to encourage, assist, give advice and referee when necessary, the more successful your children will be working together after you are gone.

A good business agreement will create an environment where there are severe financial penalties for “cashing out” — both to discourage family members from leaving and so that the property does not have to be sold or incur debt to buy someone out.

Finally, remember to have fun! Many of us who own Tree Farms really enjoy working hard. Some of our children and grandchildren do not get the same enjoyment from this as we do. It is important to step back from time to time and see the forest for the trees, and to enjoy the great beauty of the land we have been blessed to own and the great families we have been blessed to share. Make an appointment with your spouse this week to start this process — to renew your love for your property and to renew your commitment to successfully passing your baton to the next runners in the race ahead! 

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TIPS TO A SUCCESSFUL FAMILY MEETING

Follow these guidelines for a productive get-together with all members of the family.

1. Circulate an agenda ahead of time to allow family members to add items to the agenda. No surprises are allowed at the meeting. Make sure that sharing your passion for why you own the property is an agenda item!
2. Disclose any conflicts of interest or interfamily financial arrangements. You must build an environment of transparency and disclosure so that people know what is going on. This helps to stop the rumor mill and builds trust.
3. Disclose on the agenda what decisions are expected to be made at the meeting and what decision-making model will be used. There are three basic decision-making models: advise and consent (we advise, Dad decides); majority rule (by person or by ownership); and consensus (everyone has to agree). Each model has its place and is appropriate for certain types of decisions.
4. If significant travel is involved in getting to the meeting, consider having the business pay for it. Also, select a meeting space where you will not be distracted or interrupted.
5. Limit the business portion of the meeting to business owners only and set a time limit for the meeting. Start and end on time!
6. Use the business meeting as an opportunity to teach the members about the “business” of the business — how you make decisions and, more importantly, why you made the decisions. They need the benefit of both your experience and your value system. Involve the owners in the important decisions that need to be made for the future. Recap the last meeting and what actions were taken as a result of that meeting. Expect and encourage members to think and act as owners and engage their minds and hearts in your vision for the property. Allow them to add their own ideas to yours as you move forward together.
7. Hold a separate family meeting where spouses are invited (if they are not owners) to discuss how the family will interact with the property. Spend time to get to know each other as adults. Reserve a room at a local restaurant and go around the table letting each person share what is happening in their lives, what is important to them and what successes and challenges they have had since the last time you got together.
8. Follow up after the meeting to remind people what decisions were made and give periodic progress reports on the results of those actions. Tangible results will encourage more participation in the future.

—C.B.

