

Farm Transfer and Estate Planning

Jerry Cosgrove

Associate Director, Local Economies Project

Attorney and Co-author of

*Your Land is Your Legacy, A Guide to Planning the
Future of Your Farm*



Farmers and Farmland Protection

- Farm Transfer and Estate Planning are Important Farmland Protection Tools
- Often overlooked
- Starting sooner rather than later



Farms are Businesses

- Will shape their priorities and concerns
- Timing, flexibility
- Communications



Basic Goals of Farm Transfer

- Transfer management skills and responsibility;
- Transfer assets;
- Ensure financial security and peace of mind.



Getting Started

- Assemble your team
- Discuss values
- Set Goals
- Inventory Your Assets
- Determine Ownership of Assets



Basics

In order to accomplish your goals –

- What issue(s) need to be addressed?
- What legal tool(s) are available?



Transfer of Management

Issues -

- How to assess management potential?
- How to develop management skills?
- How to gradually transfer management responsibility?



Transfer of Management

Tools –

- Choice of business entity
- Written employment and/or operating agreement
- Access to financials and transparent record-keeping



Transfer of Assets

Issues –

- Which assets?
- Who owns them?
- How will they be valued?
- How and when will they be transferred?



Transfer of Assets

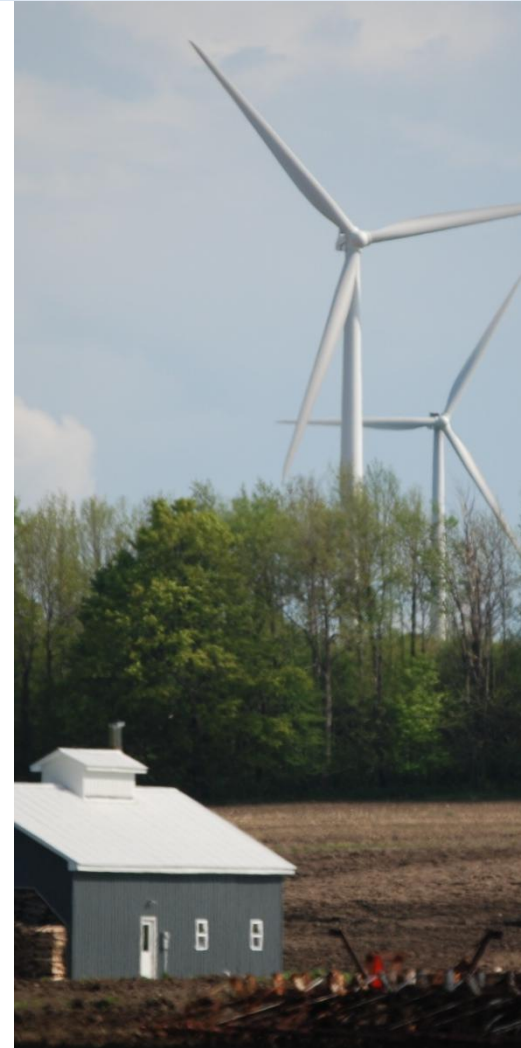
Tools -

- Business entity – buy/sell agreement
- Determine ownership of various assets
- Determine value of assets
- Explore financing options
- Agree on terms in writing



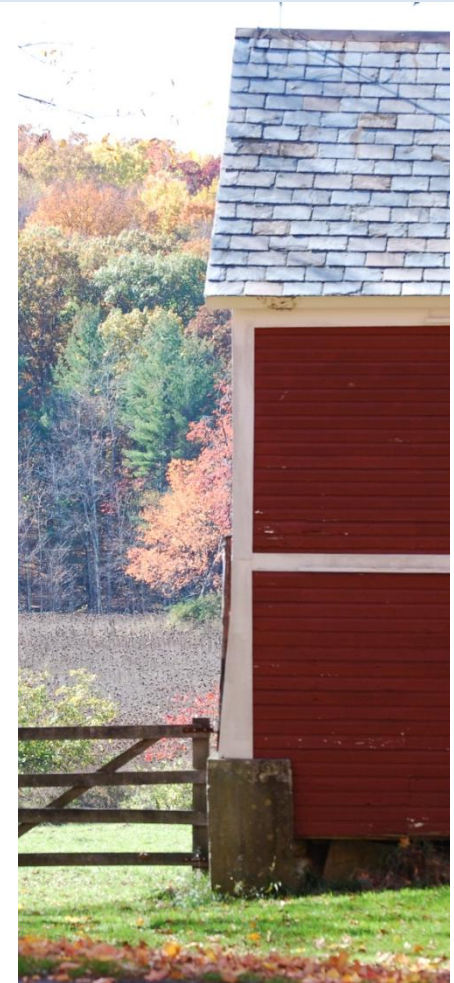
Tools, continued

- Consider whether **gifting** is appropriate
- **Determine timing** of transfer (e.g. operating assets, real estate, etc.)
- Consider whether **conservation options** are appropriate



Conservation Options

- Conservation Easements are the **primary tool**
- Easements should be part of an **estate plan**
- Easements can be **donated or sold**
- Easements can be **incorporated** into a will or conveyed during lifetime



Financial Security and Peace of Mind

Issues –

- What is “fair” value?
- What about other assets?
- Status of financial planning and retirement?
- Liquidity – where from?
- Taxes – income, gift, estate?
- Affordability for the next gen?



Financial security and peace of mind, continued

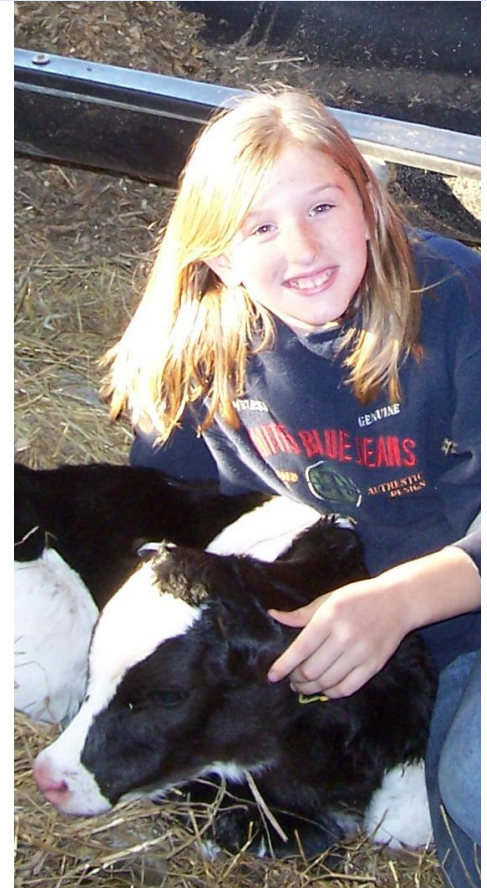
- Cash flow for farm business?
- Equity building capacity of the business?
- Contingency planning for the “5 D’s (death, disability, disaster, divorce, and disagreements)
- Health care costs



Financial Security and Peace of Mind

Tools –

- Wills, trusts (Executors, guardians, trustees)
- Power of attorney, health care proxy, living will
- Life insurance, annuities, IRA's
- Buy/sell agreements
- Long term leases
- Gifting, minority discounts



Summary

- Transfer management skills and responsibility.
- Transfer assets.
- Ensure financial security and peace of mind.
- Remember, the tools are the means to the end.

