<u>Proceedings of the Landowner Negotiation Enrichment Workshop</u>
24 July 2003, Kirstenbosch Seminar Room

Organised & sponsored by: The CEPF Conservation Stewardship Pilot Project
(Project Partners -WCNCB & Botanical Society)

The aim of the workshop was to enrich staff who are currently engaging with landowners (or who might do so in the future) with good landowner negotiation skills for the purposes of:
1.) Communicating and promoting stewardship options to private landowners
2.) Consolidating properties into protected areas (e.g. mega-reserves)
3.) Delivering applied extension services to private landowners

Three presentations were given in the morning by Jan Roux, Linden Booth and Denise True on general principles and recommendations for the approach that should be taken interacting with landowners and entering into negotiations. The workshop also provided an opportunity for staff who already have experience in working with landowners, to share their knowledge in an informal manner during the time for questions after each presentation, and during the three discussion groups held in the afternoon.

Thirty-four people attended the workshop from conservation organizations such as Cape Nature Conservation (CNC), National Botanical Institute (NBI) and the Ukuvuka Partnership. For a full list of all workshop attendees and contact details, refer to Appendix A.

Jan Roux – SAN Parks/Ukuvuka Partnership
<u>Lessons learnt from the Cape Peninsula National Park Consolidation Strategy</u>

Negotiation can be defined as *a process of interaction between two parties and creation of alternatives in a spirit of co-operative egotism based on common interests* (adapted from the Concise English Oxford dictionary). The essence of negotiation is co-operative egotism. Egotism defines the departure point in the negotiation and the extent of the expectation base of both parties. Negotiation may be less about compromise and more about a combined search for a creative solution – the good negotiator enters a negotiation with a number of creative alternatives in mind and moves from one to the next until an agreement is reached that is mutually acceptable. In order to reach agreement, each party must move away from their own expectation base and ideals, to an alternative. Flexibility is required to ensure successful negotiation. Alternatively, concessions on both sides might proceed to the point where it is no longer valuable for either party.

<u>Planning/homework</u> before negotiation is very important and should include compilation of a database with the following type of information:
- details of the owner
- the property status
- purchase price and date of purchase
- zoning rights of the property

Properties should be <u>prioritised</u> based on three types of criteria:
1.) Property information
2.) Ecological characteristics (e.g potential as linkage/corridor, biodiversity value, alien clearing & fire management requirements)
3.) Landowner characteristics

It is important to have something to <u>offer</u> landowners, such as incentives or "sweeteners", in exchange for any restrictions or conditions that is being negotiated with the landowner. Past experience has shown that there are normally <u>two types of landowners</u> – those that are affluent and conservation driven, who are not really actively seeking personal benefits or incentives; and others who can only be persuaded with tangible incentives. Experience has also shown that use of an independent land negotiator has greater acceptability amongst landowners than a negotiator affiliated to conservation agency.

DO NOT…

- **Do not** v**isit a landowner without setting an appointment**. When requesting an appointment provide the landowner with your credentials, your mandate and the intended purpose of the visit.
- **Do not be late for appointment as this can ruin credibility**. At the meeting thank the landowner for their time and re-iterate your mandate, your credentials and what you want to achieve. Remember that credibility is built on Impartiality, Patience and Professionalism.
- **Do not get emotionally involved**, especially when allegations are levelled at the organization that the negotiator is affiliated to, or colleagues. Professionalism is required at all times.
- **Do not be disappointed** if nothing is achieved in terms of concrete business proposals at the first meeting. Give landowners time to consider proposals, and terms and conditions in their own time.
- **Do not move out of your mandate,** as you have no influence outside of it and dangerous false expectations can be created in this way.
- **Do not make promises or commitments that cannot be fulfilled.** Be realistic!

DO…..

- **Thank** the landowner up front for the time set aside for the meeting.
- **Listen to what the landowner has to say**. Sit back and encourage landowners to speak and express their feelings, misgivings, grievances etc. i.e. Be prepared to be a sounding board as they off-load past "baggage" and ill-feeling, as this can help in understanding where the landowner is coming from and what the stumbling blocks are to gaining their trust. It also gives a good understanding of how the person you are negotiating with reacts under pressure. (View each question as a hurdle, every reply you give that the landowner accepts gets you that little bit closer to your goal)
- **Explain who makes the final decisions** in the negotiation process and the way forward after the initial meeting. Leave a business card with the landowner.
- **Record informal discussions**, but keep records stored very safely so that they do not fall into the wrong hands or compromise landowner confidentiality. It is recommended that sensitive/touchy issues are not captured electronically, but reported verbally instead.
- **Put minutes of meetings in writing and distribute to the landowner** to obtain agreement on the content and the way forward.
- **Have patience!** Understand that negotiation is not a fast process, and building trust and credibility with landowners takes time.
- **Plan, plan, plan!** Have incentives and necessary capacity in place before approaching landowners.

Questions typically asked by landowners

- Who are you? Who do you represent? What is your role? Do you make the decisions? If not where are the decisions made?
- Will my property be expropriated? Will I lose my ownership rights?
- What can I legitimately do or not do on this portion of property? What does the "fine print" say?
- Will the organization be able to deliver on assurances made? Is it financially sustainable? (recommendation: set-up another meeting with senior personnel to allay fears)
- What can I get out of this agreement? How will it benefit me?

Linden Booth - Contact Trust lobbyist and Baviaanskloof landowner
Lessons learnt from lobbying

- The entire negotiation process is about **PEOPLE** first and foremost. Remember that a landowner is a person who will respond emotionally, psychologically and intellectually, so don't approach a person on an intellectual level only.
- After understanding and appreciating the **uniqueness** of each person, then relationships can be built, and trust & credibility in the programme can be established.
- A landowner's **perceptions** are very important, as it is normally their perceptions and **not** reality which makes/breaks successful negotiation. (e.g. they may perceive that the "government" wants their land, or that the decision has already been taken already to expropriate their land).
- The **image** you portray is very important, so consider what type of person landowners will trust.
- The **first meeting** with a landowner is critical – let them decide on the time and place. Be very clear and up-front about what you can and cannot offer, your mandate, and the limits to your decision-making powers before the questions start.
- Address the **issues and needs** of the landowner **first** (e.g. fears of expropriation), and not the aims of the project (e.g. biodiversity goals and targets). Put yourself in their shoes to consider their issues.
- Don't dismiss the "**bigger picture**" as this is very important for landowners to understand (i.e. the greater plan for conservation and how they could form a part of it)
- Never play one landowner off against another. Remember, word spreads very quickly so ensure you are communicating a **consistent message.** Take into consideration what ideas landowners have been exposed to by the media, or other means.
- Ask landowners what **their ideas** are for their land, what is important to them, before presenting them with a list of options.
- **Incentives** should be **offered equitably** to all people. However, let the individual needs of people determine which specific incentives are negotiated with them.
- Be careful **not to create expectations** which cannot be met or are not part of the bigger picture.
- It is not recommended that presentations of conservation proposals are presented to group meeting, as ring-leaders who are opposed to the idea, can negatively influence others. Rather deal with people one-on-one.

Denise True - Bushbank Australia
Lessons learnt from Australia

- Stewardship is the key part of a conservation agency, because of the shift of investment to **people**. The process relies very heavily on relationship building, bridge building and this in turn is built on integrity, honesty and truth.
- The process relies on relationship building, thus **personality** of personnel can be more important than **experience** or ecological knowledge.
- Have very **clear objectives** when approaching landowners.
- Burnt bridges are not easily or cheaply rebuilt

HARD LESSONS

- **Lose the acquisition mindset**! See the potential of a connected landscape – all is not lost, so work with what you have.
- Conservation is not only about reserves, but about **people and perception management**. Conservation can also be seen as managing two groups of people – those who live in the landscape, and those who have determined objectives for the landscape.
- **Deliver on your promises**. Farmers will accept the realities of what cannot be provided.
- Be prepared to take a back seat and **let landowners lead**. The goal is to balance clear intent with farmer needs. When you are no longer needed, you have succeeded.
- **Motivational incentives** area as important as financial benefits (in Australia most covenants are philanthropic agreements not hinged on incentives)
- Remember, its is long road! – so **be patient** during the negotiation process.

USEFUL TOOLS

- **Know your toolbox** – when to apply each
- **Judgement calls** are needed - know what information to share with landowners and what to keep.
- Know the local context of the political/farmer situation, as well as **convenient times and seasons** for farm visits.
- Gain an understanding of the different farming practices and the constraints placed on the landowner resulting from the type of farming he/she is involved in.
- Intuition is important, but **notes last longer**. So write up good notes after a meeting

If objective is to buy….

- Use tactics to **avoid price inflation.**
- The real **value** of land can be regarded as what someone is **willing to pay** for it.
- Know when to source other professional expertise.
- Close the deal, sign the agreement. Don't let it drag on & on.
- Review the conditions in an agreement annually and provide follow-up after the initial "honeymoon" phase is over.

Group Discussion Report-backs

Question 1: *What are your ultimate objectives versus your immediate objectives for landowner negotiation?*

Communicating stewardship/incentives options group	Consolidating properties into Mega-reserves group	Applied conservation services group

Ultimate Objectives		
• All priority areas on private land effectively conserved with legal status	• Conservation of biodiversity at a landscape-scale	• Conserve biodiversity in situ while allowing productive landuse to continue • Cultivate a conservation culture
Immediate Objectives		
• Prioritize where to work according to what is important (i.t.o. conservation value) and what is under threat • Take part in parallel planning initiatives (e.g. Spatial Development Frameworks, Dept of Agric. Area-wide planning) • Build capacity within cons. Staff for education and awareness, and • Build relationship with priority landowners • Ensure a consistent message is being communicated to landowners by different staff • Do not over extend ourselves. Find other alternatives to support private cons. initiatives (e.g. Conservancy Forums) • Be realistic about what incentives can be offered now	• Develop a draft vision with landowner and stakeholder input • Agree on common goals • Record and database maintenance • Build and maintain relations to establish credibility • Capacity building • Make use of local knowledge to "know your customer" • Clear understanding between the use of incentives and legislation	• Get farmers involved in sustainable landuse practices • Develop mutual relationships between conservators and landowners • Increase awareness of environmentally friendly practices • Shift landowner paradigms away from conserving "big five" only • Plug ignorance gaps through education and communication • Examine opportunities for other industries to contribute to ultimate objectives

Question 2*: What should you consider prior to making contact with landowners for your conservation objectives? (Answers from all three groups combined)*

1. Staff person should have the **right personality** for dealing with landowners (i.e. be a "people" person), be accepted in the community, and speak the right language
2. **Familiarise** yourself with the landscape as well as details about land use and zoning
3. Find out whether **previous contact** has been made with the conservation organization to determine whether any "bad history" exists that should be taken into consideration
4. Know what **information** is available that can be supplied to the landowner about his property (e.g. maps, species lists for area)
5. Have **educational material** available to give out after a meeting should the need arise
6. Speak to community leaders to **establish rapport** with influential people
7. Understand the economic, cultural and political **background** of the landowners, including agricultural constraints and market forces that impact farmers, and identify existing perceptions
8. Be familiar with your own subject to communicate **confidence**
9. **Have a clear mandate and plan of action.** Be clear about what your objectives are before meeting with the landowner

10. **Know what you don't know**! Know where to access other expertise if you cannot answer all a landowner's questions

During interaction with a landowner….

- **Don't be overbearingly enthusiastic** - match enthusiasm with a realistic consideration of what can be delivered
- **Acknowledge achievements of landowners** and praise-worthy adjustments that have made to landuse or production that will favour biodiversity

Question 3: *Elaborate on 1 good and 1 bad example of landowner interaction, and how you would approach it differently in the future*

From the examples quoted, characteristics of "good" or successful interactions can be summarized as follows:

1.) Continuity and consistency established a long history of good relationships (e.g. Elandsberg NR)
2.) Conservation staff were reliable and credible.
3.) Farmer's needs and opinions were taken into consideration.
4.) Bottom-up approach where the landowner's themselves initiated action, and conservation agency staff provided follow-up.

From the examples quoted, characteristics of "bad" or unsuccessful interactions can be summarized as follows:

1.) Private conservation initiatives were **too top-heavy** (i.e. government stakeholders were too dominant)
2.) Promises were **unfulfilled**
3.) A single, consistent conservation agency strategy was not decided upon before going to a farmer, so different staff provided different answers (creates **confusion**)
4.) The "**big stick approach**" was used without first considering the specific context of the situation or explaining to the landowners their lawful alternatives
5.) When an unlawful action was involved, no explanation was given to a farmer for *why* it is a problem. Instead, "the book" was thrown at the landowner, which ended interaction on a bitter note.

Question 4: *How can one bring a balance between building relationships and "closing the deal"?*

1. Explain the process up-front
2. Determine early in the process what restrictions the landowner is prepared to consider
3. Provision of incentives and negotiation regarding their terms and conditions will help cross the divide between relationship and a business transaction.
3. Promote previous examples of success to allay fears.
4. Never close the deal negatively, i.e. on a sour note. Everyone must walk away winning.

Regarding **applied extension services**, where they do not necessarily "close deals", the aim is rather to:

i.) capacitate farmers to take responsibility for the protection of biodiversity on their own land
ii.) capacitate conservancies to function without constant input of the conservation agency
iii.) secure partnerships between conservationists and landowners.