

## ESS Coordinating Committee

### Meeting Summary

November 10, 2022

#### Participants

Nancy Booten, Lee County Recorder  
Julie Haggerty, Polk County Recorder  
Eric Sloan, ICIT  
Jolynn Goodchild, Plymouth County Recorder  
Lindsay Laufersweiler, Webster County Recorder

David Erickson, Dentons Davis Brown  
Natalie Steffener, Des Moines County Recorder  
Denise Baker, Wright County Recorder  
Melissa Bahnsen, Cedar County Recorder  
Jamie Stargell, Adams County Recorder

#### Other Participants

Sheri Jones, Jones County Recorder  
Phil Dunshee, Iowa Land Records  
Steve Schmidt, North Risk Partners

Lisa Long, Iowa Land Records  
Kati New, Bergan KDV

#### Welcome

A meeting of the ESS Coordinating Committee was held in person and via web conference. The meeting was called to order by Chair Nancy Booten and introductions were made.

#### Meeting Summary

The August 9, 2022, meeting summary was reviewed.

#### 2023 Meeting Schedule

A schedule for the 2023 meeting calendar was presented to the Committee. It was noted that the ISAC meeting schedule will need to be updated. The Committee members were asked to follow up on nominations as soon as possible, as necessary.

Jolynn Goodchild made a motion to approve the proposed 2023 ESS Coordinating Committee meeting schedule. Lindsay Laufersweiler seconded, and the motion was approved.

#### Financial Reports

##### Settlement Account 3<sup>rd</sup> Quarter 2022 Financial Reports

The Committee reviewed the quarterly report through September 2022. The BOA accounts were reconciled with an ending balance of \$1,332,677.67. The account setup for Bankers Trust (BT) is complete and it was also successfully reconciled with an ending balance of \$448,875.27. The total 2022 year-to-date (September 30) budgeted income was \$1,804,873.08 and net income was \$485,636.94 for the period.

##### Fund 255 FY 2023 1<sup>st</sup> Quarter Reports

The Committee reviewed the Fund 255 account, and the balance sheet closed with total assets of \$230,002.76. Natalie Steffener made a motion to approve the financial reports. Lindsay Laufersweiler seconded, and the motion was approved.

### **Reserve Fund Allocations**

ESS has four reserve accounts: Software Development and Equipment Maintenance Reserve; Redaction Reserve; Restricted Operating Reserve and Unrestricted Reserve accounted for under the Bank of America Settlement account. Net income that is not allocated to one of the reserve accounts is included in the Settlement accounts (operating accounts). Two actions were recommended. First, to allocate income received above budgeted projections for the previous two quarters (\$78,381.81) to the Software Development and Equipment Maintenance Reserve.

Second, authorization was requested to set up corresponding reserve accounts under the new Bankers Trust account. In the near future, reserves will be managed only through the Bankers Trust account, because it is expected that the Bank of America account will be closed by December 31, 2022. Jolynn Goodchild made a motion to approve setting up the four reserve accounts with Bankers Trust and to transfer \$78,381.81 into the Software Development and Equipment Maintenance reserve. Natalie Steffener seconded, and the motion was approved.

### **ILR Budget Review and Action**

#### **Revenue/Expenses Trends**

The 2022 October E-Submission activity mirrors the transaction level for the same period 2019. This is caused by several factors and the trend will impact budget projections for 2023. It was noted that changes in the marketplace have led to changes in overall recording and electronic recording. It is predicted that we will continue to see a lower level of activity given current economic conditions (high inflation, higher interest rates, and higher mortgage interest rates). Steve Schmidt, who serves as the broker for ESS insurance services, provided an overview of the current insurance market. ILR as technology organization and is subject to cybersecurity risks like any other technology company. Mr. Schmidt explain why ESS insurance premiums have increased significantly this year.

#### **ILR CY 2022 Final Budget Amendment**

Committee members received a report from the Project Manager regarding the primary drivers for the budget amendments including the use of actual data year-to-date and revised expenditure estimates in the remaining months. The first half of the year had increased activity, however the third quarter trended toward 2019 levels. Fund 255 monthly income also dropped below \$50,000 due to lower overall recording activity. The reserve fund will continue be utilized for ongoing software development. The CY 2022 Budget Amendment details were reviewed by the Committee.

Jolynn Goodchild made a motion to approve the 2022 budget amendment. Julie Haggerty seconded, and the motion was approved.

#### **BOA CY 2023 Budget**

Expected income for 2023 is derived from the county point-of-sale (POS) payment system, E-submission, Fund 255, and from services provided under the ICRA/ESS Memorandum of Understanding (MOU). Expenses are projected to increase due to inflation and other economic factors. Steps are being taken to reduce operating expenses associated with printing, internet, and office technology support services. Some technology expenses will also be covered in part by reserve funds which grew during better economic conditions.

Total budgeted income for CY 2023 is projected to be \$1,868,425.00 and total budgeted expenses are projected to be \$1,844,674.90. Net income is projected to be \$23,750.10.

Lindsay Laufersweiler made a motion to approve the CY 2023 budget. Julie Haggerty seconded, and the motion was approved.

### **ESS Employment Authorization**

The Committee was informed about a vacant position for the ESS/ILR Communications and Marketing Coordinator. A search is underway, and some interviews are in progress.

### **ESS Treasury Management Update**

The Project Manager provided an update on treasury management services. The process of transitioning accounts from Bank of America to Bankers Trust is proceeding successfully. The Bankers Trust account for the Electronic Services System was set up by following the final adoption of the 28E agreement amendment. \$100,000 was initially deposited into the new Bankers Trust, and thus far, a total of \$450,000 has been transferred. ILR administrative staff completed work on the NACHA file prototype and it was submitted to Bankers Trust for testing. The next phase will require programming to modify the daily NACHA and accounting files. The Bank of America account will be closed by the end of the calendar year.

### **AOS/TOS Outreach**

The Project Manager reported on meetings recently conducted with staff from the State Auditor's office and the State Treasurer's office. The purpose of the meetings was to provide them with an update about ESS and Iowa Land Records activities, and to maintain open communications with key staff.

### **Contracts & Agreements**

Several contracts and agreements with service providers were due for renewal prior to the end of the calendar year.

### **Local Service Providers FY 2024**

Agreements with local land records management service providers will automatically renew on July 1, 2023. As provided in the master agreements, compensation amounts will automatically increase based on the cost-of-living adjustment (COLA) for social security. However, any increases are capped at 3.5% under the terms of the agreement. It was noted that a significant activity for local service providers concerned an update to the ILR E-Submission and county upload application programming interfaces (API).

### **Bergan KDV CY 2023 Engagement**

The agreement for bookkeeping, CPA, audit and 990 return services is due for annual renewal. Bergan KDV has requested a substantial change in compensation, and discussions are ongoing. A renewal of the engagement was not ready for action at this meeting.

### **Rafferty Group CY 2023 Engagement**

The Rafferty Group submitted an updated engagement agreement with a small fee increase. Funds for the adjustment are included in the 2023 budget. Natalie Steffener made a motion to approve, and Julie Haggerty seconded. The motion was approved.

### **Brick Gentry CY 2023 Engagement**

Brick Gentry submitted an updated engagement agreement with a small fee increase. Funds for the adjustment are included in the 2023 budget. Lindsay Laufersweiler made a motion to approve the Brick Gentry engagement, and Julie Haggerty seconded. The motion was approved.

### **Enterprise Iowa Contract and MOU Amendments**

During the August, 2022 meeting of the ESS Coordinating Committee meeting, several actions were approved including the establishment of a new lease agreement for a multifunction printer in the name of ESS, a new phone system for ESS administrative personnel, and the establishment of a new “tenant” with Microsoft in the name of ESS for Office 365 software and storage services. The purpose of these changes was to reduce office operating costs for ESS and to prepare for the transition of ESS operations to a different office. The portability of the new services means that the services can be easily moved to any office environment with internet access and the new phone service will better support remote operations when necessary – especially with respect to customer service. The transition to these new services is underway and should be completed by the end of the year.

### **Enterprise Iowa Contract and MOU Amendments**

Office services and related technology have historically been provided by Enterprise Iowa under a contract and an associated Memorandum of Understanding (MOU). Essentially, Enterprise Iowa provided these services and the agreements provided for reimbursement of these expenses. With the changes in services for copying/printing, phones and Office 365, these provisions need to be removed from the Enterprise Iowa arrangements. Amendments to the Enterprise Iowa contract and MOU provided the following.

1. A reduction in monthly reimbursement for technology services per office unit per month from \$175.00 to \$62.50. Internet service would continue to be provided by Enterprise Iowa. However, phone service expenses would be handled under the new phone arrangements.
2. Computer support services for ESS personnel would be removed entirely from the agreement as ESS will be setting up a direct support arrangement with a technology service provider (meaning that the arrangement is portable to any new office environment). Associated with this change is a transition from a LAN server and backup system to the utilization of Microsoft

cloud services under the control of ESS.

3. Office 365 software services including business applications and cloud storage services will be transitioned to the new Office 365 “tenant” controlled by ESS.
4. Through the Memorandum of Understanding ESS would continue to secure office space through Enterprise Iowa. However, it would continue to be a year-to-year arrangement and not an ongoing lease. This arrangement was reviewed with our Auditor to make sure we are following appropriate accounting procedures, and the MOU itself was created to provide transparency for the arrangement.
5. Enterprise Iowa requested a 4.2% increase in base compensation for 2023.

Julie Haggerty made a motion to approve the amendments to the Enterprise Iowa agreement and Memorandum of Understanding. Natalie Steffener seconded, and the motion was approved.

### **ESS Communications and Marketing Vacancy**

The Committee was informed that Kati Ross had accepted a new position. Search and recruitment activities are underway. The title was changed from “director” to “coordinator” as it became apparent that applications were assuming that the position would be leading a “department” of some kind. The nature of this position is to provide a full range of communications and marketing services in collaboration with other members of the ESS/ILR team.

### **ILR Staff Compensation Adjustments**

The Committee was presented with the proposed changes in ESS/ILR staff compensation. The compensation adjustments are the result of the performance reviews completed for 4 employees. Recommended compensation adjustments are intended to reflect both performance and conditions in the marketplace. Funds for the adjustment are included in the 2023 budget.

Julie Haggerty made a motion to approve the ILR staff compensation adjustments. Lindsay Laufersweiler seconded, and the motion was approved.

### **Lean Techniques Work Authorization 2.1 and 2.2**

At the May 10, 2022, meeting of the ESS Coordinating Committee authorization was granted to expend up to \$350,000.00 from the Software Development and Equipment Maintenance Reserve for the next phase of creating the next generation of software for Iowa Land Records. Two work authorizations have been executed. Lean Techniques work authorization 2.1 for software development was completed at a cost of \$43,200, and work authorization 2.2 is in progress with an estimated cost of 122,100. Currently, work is focused on the creation of a new user registration system using central authentication services (CAS). CAS is a permissions-based system includes single sign on and will include 2FA (two factor authentication) for designated user roles including recorders. Work authorization 2.2 is effective through December 30, 2022. The ratification of these work authorizations was requested.

Jolynn Goodchild made a motion to approve the Lean Techniques work authorizations. Lindsay Laufersweiler seconded, and the motion was approved.

### **ESS/ICRA MOU Update**

At the August 9, 2022, meeting of the ESS Coordinating Committee a Memorandum of Understanding between ESS and the Iowa County Recorders Association (ICRA) was adopted to provide a structure which would permit ESS to provide certain services to the Association. A brief update of activities was provided to the ESS Committee.

### **Recorders Manual**

The Recorders Manual is being updated by many volunteers from the ICRA. This process is being coordinated by ESS team member Census Lo-Liyong. This process involves assigning chapters to Recorders (and Deputy Recorders) and setting up virtual meetings to review each chapter. It is hoped that the manual update will be completed in early 2023.

### **Preparations for 2023 Legislative Session**

ICRA has proposed the possible adjustments to the laws governing the recording of trade names. The proposed adjustment is currently being researched and it is tentatively included in the ISAC legislative agenda.

### **District Meetings**

Census and Lisa reported that they will be attending the District 1 meeting on November the 15. The two are also planning to attend other District meetings including PRIA LOCAL meetings when feasible.

### **ISAC Future Discussion of Fee Policies**

ISAC legislative plans note that most county service fees have not been adjusted in years and the increased expenses may have been shifted to property taxes. ISAC plans to explore a modernized fee structure that will cover the cost of providing services and reduce the burden on property taxpayers. ICRA and ESS will be following the progress of this discussion.

### **Linn County Registration Renewal Project**

The Project Manager provided the Committee with background concerning a proposed joint project with Linn County. The county is developing an online license renewal application, and they have inquired about the possibility of leveraging the ESS payment system to support it. The ILR team has examined options and we have determined that ILR payment systems (and providers) have the means to support these transactions. ESS will be developing the agreement and work could begin in 2023. It is hoped that the knowledge received can be used in service to any ESS county. Before proceeding to next steps, the Committee was asked to consider the concept and forward any questions to the ILR team.

### **Backfile Scanning Contract Management**

The Project Manager presented information about a concept for coordinating and assisting the work of counties when implementing "back file" scanning projects. It was suggested that it would be possible to create a master contract with imaging providers through ESS, and that any ESS member would be able to use the services without having to conduct their own procurement process. ESS would issue an RFQ or RFP to develop project management terms with qualified vendors. Recorders could select a vendor, but the contract would be managed by ESS to maintain consistency across the 99 counties. Before

proceeding to next steps, the Committee was asked to consider the concept and forward any questions to the ILR team.

### **Policies & Procedures**

The ESS Standards Subcommittee met on October 18, 2022 and they have advanced several policy recommendations to the ESS Coordinating Committee for action.

#### **Technical Updates 1.6 (5), 1.10, 3.2 (2), 3.6 (3), 5.4 (1) f, h, k, n, 5.4(2) and 5.5(2-4)**

The Standards Subcommittee has proposed several technical amendments to Chapter 1, 3 and 5 of the Policies and Procedures. Some sections include references to the previous 28E agreement structure. With the adoption of the 28E amendment, direct references to the ICRA Executive Board needed to be modified. Under the amended structure, the governing authority for the Electronic Services System is the ESS Coordinating Committee, and the role of the ICRA Executive Board is to appoint the members of the ESS Committee.

Other technical changes to the Policies and Procedures included the following.

- An update to Section 1.10 concerning the duties of ESS Executive Committee to better align with the updated 28E agreement.
- An update to formatting requirements for E-Submission in Section 5.4 to reflect current practices such as the processing of color signatures.
- A correction to the Iowa Code Reference to Smart Contracts 5.4 (2). This policy was moved to a new section 554E.3 in recent legislation.
- A modification to the use of the term “declined” in lieu of “rejected” in the E-Submission process.

Lindsay Laufersweiler made a motion to approve the proposed technical amendments to Chapters 1, 3, and 5 of the Policies and Procedures. Julie Haggerty seconded, and the motion was approved.

#### **Compensation of Members – 1.6 (10)**

The Standards Subcommittee has proposed an amendment to the compensation provisions in Section 1.6 (10). The updated policy would adjust the mileage reimbursement rate to be based on the current IRS optional standard mileage rates. The amendment also clarifies that meal reimbursement rates would continue to reference the State of Iowa Summary Travel Reimbursement guidelines.

Lindsay Laufersweiler moved that the proposed amendment be approved, with an effective date of November 10, 2022. Julie Haggerty seconded the motion, and it was approved.

#### **Bill of Sale and Bargain and Sale Deed – 3.6 (2)**

The Standards Subcommittee has proposed an amendment to the mapping table provisions in Section 3.6 (2). Recently the ILR team received a query concerning a document type called “Bill of Sale”. ILR was asked if this document could be included as a document type in the E-submission. In lieu of creating a new document type, the suggested practice would be to process a document as a deed in E-Submission, and then archive the document as the type used customarily in the county. When transferring the document to Iowa Land Records, that local document type should be mapped to “Deed.” To reflect this recommended practice, the mapping table specified in Section 3.6 (2) needed to be updated.

A motion was made by Ashten Wittrock that Section 3.6 (2) of the Policies and Procedures be amended to reflect the suggested mapping procedure. It was seconded by Mindy Fitzgibbon, and the motion was approved.

### **Policy and Governance Topics**

ILR staff provided the ESS Committee with an update on several policy and governance topics.

#### **Groundwater Hazard Process Implementation**

The Project Manager provided an update regarding the implementation of new GWH statement processes. The Department of Natural Resources will be presenting the updated Groundwater Hazard form and new rules at the legislature's Administrative Rules Review Committee (ARRC) for approval. There will also be a public hearing held on November 22, 2022. The new form is expected to become effective in February 2023.

#### **Terms of Use Legislative and API Legislative Proposals**

Stakeholder and focus group meetings were held in July and August to engage users on future updates for the ILR search application and the affirmation of the Terms of Service. Valuable feedback was received. A survey was also conducted and 485 people participated. As a result of the stakeholder discussions, two amendments are being proposed including a proposal to solidify the authority of ESS and Iowa Land Records to establish a Terms of Service for the Iowa Land Records system and a proposal to authorize ESS and Iowa Land Records to provide access to information through an API in limited conditions. Based on the comments and feedback received, there appears to be some support for these proposals. Further feedback from stakeholders will be gathered and a final proposal will be developed based on those conversations.

#### **Smart Contracts Working Group**

Following the passage of the Smart Contract legislation, Iowa Land Records proposed to set up a working group on distributed ledger technology. The idea is to explore and better understand the utilization of blockchain technology in the real estate industry. Several stakeholders have expressed interest.

#### **Committee Nominations and Appointments**

The Committee received an update on basic Committee rules regarding the ESS Committee nomination and appointment process. Committee members were asked to help facilitate communication with each district to secure nominations for any open positions.

#### **Communications Subcommittee Update**

The Committee received an update on the Communications Subcommittee meeting that was held on October 27, 2022. The meeting included a discussion on the ICRA recorders directory and a report on the Deputies' conference. The recorders directory will be updated after the November election to include any new recorders. Polk County has offered to print it at a cost of four dollars with a two-dollar shipping fee. The Deputies' conference was well attended. Based on the evaluation comments received, the conference was a success, and the highest-ranking elements were the two outside speakers and the conference location.



### **PRIA Policy Discussion Update**

The Project Manager presented the Committee with a packet of correspondence with PRIA concerning the public land registry. This included a memo from ESS to the PRIA Board of Directors that was shared with other PRIA members who are recorders or registrars in other states. The ILR team was thanked for representing the interests of the public and county recorders to PRIA.

Also, the PRIA Board of Directors recently adopted updated new operating rules. There were several changes and updates to the operating rules that were the direct result of ILR participation in the drafting process.

### **Discussion of Possible Future Policy Updates**

#### **Minor Variation Clarification**

In 2016 the ESS Coordinating Committee updated the requirements for Electronic Recording to include the following statement in Section 5.4 (1) of the Policies and Procedures. "Electronic documents with minor variances or imperfections which do not prevent processing, indexing or archiving shall be accepted." Recordors have sought clarification on what variances should be allowed. This led to a discussion of possible changes to several document formatting requirements that were reviewed by the ESS Standards Subcommittee during their October meeting. These topics included the following.

- Defining a Recording Stamp Area
- Allowing a Standard Index Legend
- Defining and Clarifying the Requirements for Preparer and Return Information
- Establishing a Formal Cover Page Policy

It was determined that a working group would be set up ESS proposes setting up a working group to review the Iowa code and Policies and Procedures on the subject of document formatting, and to consider the topics referenced above.

#### **Discussion of Other Future Policy Topics**

The ESS Coordinating Committee also discussed several other topics that related to best practices, technology security, and possible future improvements to the Iowa Land Records database and search application.

#### **Processes for Refunding Transfer Tax paid in error**

The current practice of refunding transfer tax may vary in each county, and some practices may not be consistent with the Iowa Code. Under Iowa Code 79.1 (5). The topic was deferred for further review.

#### **User Authentication Policy**

A draft user authentication policy was presented for discussion. ESS/ILR previously participated in a renew of IRS 1075 security standards. These standards applied to our primary applications (search, submission, payment), the infrastructure at our data center, and to our office local area network and devices. Several changes have been made since then including the development of the updated E-Submission application. State tax liens are confidential taxpayer information prior to recording. The

draft policy is being developed in conjunction with the creation of a new user management structure for Iowa Land Records applications.

### **Associated Document References**

A technical update was discussed for section 3.9, Associated Document References. It would require county indexing systems to provide for bilateral archiving of Associated Document Reference information. The Committee noted that submitters could include the associated references for conveyance documents on the first page or a cover page.

### **Parcel Identification Numbers**

The Committee received information on the current policies concerning Parcel ID numbers and discussed the potential benefit in the Recorders index.

### **Easement Images**

In the spring of 2022, the ILR system implemented new procedures for processing images. The purpose of the change was to improve the clarity of recorded and stamped images through the E-Submission service. This process has worked for most documents except for illustrative images attached to easements. Easement images include photographs and architectural drawings that become a poor-quality image when reproduced. The Project Manager provided this information for discussion purposes including a few images for illustration.

### **Other Discussion Topics**

The ESS Committee also reviewed information about two other discussion topics

Temporary Document Restriction – A discussion about whether there should be a process for temporarily restricting access to a record if the disposition of a document is pending before a judicial officer.

County First Page Concept – A discussion about the possible use of a “first page” by a county to summarize information in a document (not to be confused with a “cover page” used by a submitter or preparer).

The meeting was adjourned at 2 PM. The next regularly scheduled meeting will be February 16<sup>th</sup>, 2023.