

# **A Tale of Two Trees: Community Engagement Opportunities Between Homeowners Associations and The City of Rosemount**

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## EXECUTIVE SUMMARY

This capstone project of the Hubert H Humphrey School of Public Affairs examines the evolving relationship between the City of Rosemount and those residents who are part of what are known as Common Interest Communities (CICs), properties that are privately held but have an intermediary organization between the homeowners and their local units of government. These intermediary organizations occupy a social and political space that isn't quite public because the land is designed to serve a specific community of individual homeowners; it also isn't quite private because interest in these common spaces is held by an array of individuals, municipal governments on several levels, and a democratically-elected board that manages the common community. Homeowners Associations are an example of these CICs.

In this project, we examine the legal and social positions of Homeowners Associations (HOAs) within the City of Rosemount to arrive at a greater functional understanding of how the city can be more effective in delivering services, educate and empower HOAs to be best positioned to deliver their services, and engage the residents of Rosemount to become more active and empowered so they will be more aware and engaged in their CICs.

The need for this project is simple: Rosemount is a growing community, projected to grow 90% by 2030 according to Rosemount's website, with a significant portion of it being served by HOAs as depicted in Figure 1 below, operating essentially as cities within a city. But our analysis shows that the relationship between the city and its HOAs is at a crossroads. The city can continue along its current trendline and manage HOA issues in a reactive, ad hoc way; or it can consider the Capstone's recommendations that carefully examined the issues and reveal an enormous opportunity to leverage community engagement into innovative actions that will generate operational efficiencies and proactively develop more effective HOAs.

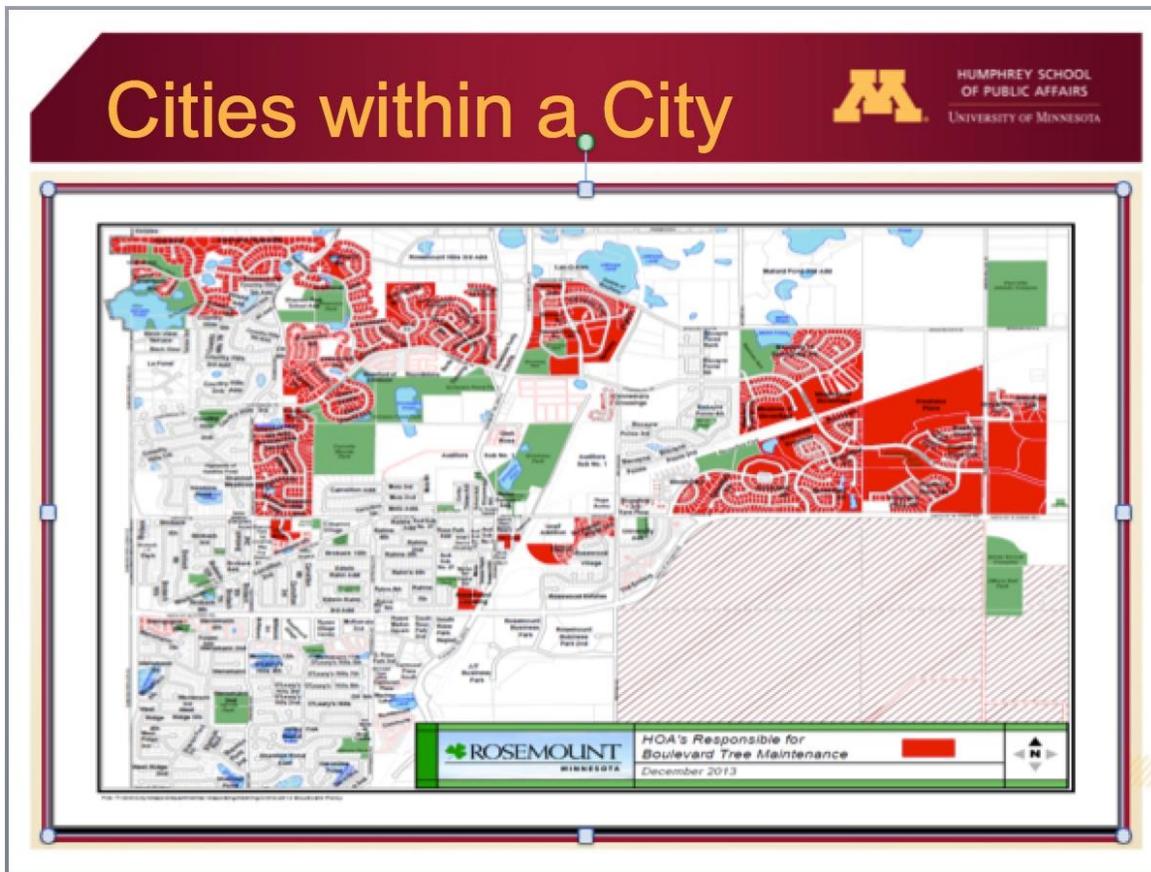


Figure 1: Cities within a City: A graphical depiction of the HOAs in the City of Rosemount that are responsible for boulevard tree maintenance, as of December 2013.

The Capstone team conducted a literature review and drew two themes: there isn't a significant body of academic research at the intersection of CICs and public affairs; and contemporary community engagement practices as identified in our research could help Rosemount achieve its policy goals of providing effective service delivery as well as meeting residents' expectations of such. We also interviewed a number of stakeholders and key individuals whose expertise and experiences could be analyzed within the context of our research questions. This provides the foundation for our policy recommendations.

We recommend three action items that support the goal of a more effective relationship between HOAs and the City. First, we suggest that the relationship itself be recognized as an opportunity to create successes for both HOAs and the City through leveraging each others' strengths in a planned, strategic way. The current HOA/City relationship is more ad hoc, responding to individual concerns as they develop, and handled at lower levels of both sets of organizations; we encourage a higher-level policy discussion at the City so its responses to issues are coordinated and consistent, and

staff at all levels feel support when implementing them. This will help strengthen the concept that CICs are an opportunity, not just an occasional generator of phone calls and tasks.

Second, we recommend developing community engagement strategies based on current public administration research. Any engagement strategy needs to be transparent, intentional, and iterative. In other words, the City needs to signal that it wants to build more proactive relationships with its HOAs, it is going to do so in a very open way, and that there is no such thing as a “one size fits all” concept – the City needs to be able to adapt its actions to best meet the opportunity. The goal is to leverage an opportunity to do something positive, not just hold a series of unavailing meetings.

Lastly, we recommend that the City of Rosemount begin the process by initiating specific engagement activities. For example, the City should host an event where all HOAs are invited. Doing so will signal that it wants to develop a proactive relationship with its HOAs. The City can also develop a stronger presence at ongoing HOA meetings, acting as a sounding board when HOA and city issues intersect. We understand that this would draw on existing resources, but we estimate that the benefits outweigh the costs, especially if the labor is widely distributed across the city government.

With respect to timing opportunities, three areas of circumstances are identified as spaces in which the City of Rosemount can develop policy that addresses the communication gaps: first, we recommend developing and initiating contemporary community engagement strategies to educate and engage residents who are sometimes unclear of the varying roles and responsibilities of their HOAs, and also to encourage residents to be more active participants both within the city itself but also their “city within a city”, the HOA. Second, the City has an opportunity to be more proactive at the moment when the Planned Unit Development (PUD) transitions to an HOA; this is the handoff from when a developer of a project relinquishes control of a HOA. Lastly, the City can leverage that opportunity at the point of transition from planned development to the more mature stages of common interest community with the goal of shaping more effective policy in the future. Adoption of these recommendations can add value to Rosemount’s HOAs as well as facilitate the mission, vision, and values of the City.

## NARRATIVE

### Homeowners Association Background and the Tale of Two Trees

Beginning in the 1800s but expanding greatly in the 1960s, Homeowners Associations (HOAs) emerged as a legal construct that functions as an intermediary between units of government and homeowners. After a property developer completes a project, they typically transfer responsibilities associated with the ongoing property maintenance and management to a newly-formed HOA. That HOA is a legally recognized, nonprofit corporation that enforces covenants, conditions, and restrictions (CC&Rs). Planned Unit Development (PUD) agreements oftentimes go above and beyond local building codes but also occasionally allows for deviations so that developers do not have to reapply for code variances. In other words, they establish a private set of rules and restrictions that homeowners must abide by; the level of expectations may be above the municipal baseline for residents but below for developers. At the same time, they also allow for homeowners to participate in the HOA boards through familiar democratic participation practices.

HOAs fill an intermediary space between local units of government and homeowners in ways that are still being explored. In order to qualify for the aforementioned zoning variances from the cities in which they exist, for example, HOAs agree to take on the maintenance responsibilities of those features. Other features continue to be the responsibility of the city as they would be were there no HOAs.

The City of Rosemount faces an issue that reflects the progression and evolution of these HOA models over time. Some HOA versions split the maintenance of public spaces in a specific way while other versions draw the line somewhere else. Since there has not been a single standardized format over time, the lines of responsibility that indicate whether the City or an HOA performs a service are not always clear. When this is not straightforward, each stakeholder organization is left operating with unclear expectations and therefore performing at less than peak efficiency.

This establishes a challenge for both the City of Rosemount as well its HOAs and these CIC residents: there is no single comprehensive storehouse of information on which to draw as a resource for understanding exactly where the responsibilities of the private HOAs end and those of the City of Rosemount begin. And there is no formalized method of communication between staff at the City of Rosemount and the 37 master HOAs that operate within its borders. The challenge this poses for staff is

to find a way to research and deliver services when there are over 37 different sets of conditions under which to operate, and growing.

The lack of an operational framework challenges city staff and HOA officials. Take the tale of two fallen trees, one in Rosemount and the other in Stillwater, Minnesota. In Rosemount, a young tree owned by a HOA was struck by an errant driver. A concerned resident contacted Rosemount's Public Works Department demanding that it be removed. Public Works staff determined that it was not a tree on public property and tried repeatedly to reach out to the HOA that owned it to no avail. Public Works staff eventually removed the tree to more efficiently resolve the residents' consternation. The concerned resident was happy and not soon after a replacement tree suddenly appeared, presumably planted by the HOA. In this first example the city stepped in to take on the HOA's responsibility due to the resident's concern and inability to connect with the responsible party (Christine Watson interview). Meanwhile, in Stillwater, a tree owned by the city was damaged and had to be removed. Because that HOA was active and engaged, they did not wait for the city to take action; they removed it themselves (Todd Remely interview). In the first example we see public resources being deployed to protect private assets; in the second, we see the exact opposite. What was common was the underlying reason of short-term efficiency, at the expense of long-term effectiveness. Our recommendations rest on the assumption that each stakeholder performs at their peak power when they're complimenting each other, not doing one another's work. While mutual support is always a good thing, the recommendations seek to improve engagement and communication so each stakeholder is eager to meet its own responsibilities.

The three critical phases for transformative policy and HOA engagement uncovered by the capstone group are presented in three stages: initiation of the HOA by the developer during the PUD process, transition from a developer-led to a resident-led HOA, and the more mature phase once a HOA is well-established and institutionalized in its community. The point at which a housing project transitions from a PUD to a HOA is critical: When designing a PUD, the developer is the sole party that engages with the City to plan a housing community and is individually responsible to solve issues as the project gets underway. For example, when a developer approaches the City to initiate a PUD, the developer leads all elements of the process. As the project is built and residents move into the development, a HOA is formed; they begin to participate in the HOAs as they are established, but the developer still plays a dominant role. The developer's role shrinks as more residents move in and become active in the HOA. It is at this point when the clear relationship between a developer and the

city transitions to one between a newly-formed resident-led HOA and the city; this is potentially the strongest opportunity to shape the new relationship, while its structure is being crystallized during the period where the developer is still involved as the HOA strives to be self-sustaining.

## Literature Review

What we have found in academic literature coalesces into two large groups. One area discusses HOAs as a legal construct that emerged in the late 19<sup>th</sup> century but really exploded in the 1960s as an intermediary form of property management and dispute resolution that has been constructed between individual homeowners and their local governments. The other describes what contemporary community engagement tools can be used in a context such as the research questions explored by the capstone group.

Our initial literature review in this first area of property law and public affairs research indicates that it is underdeveloped. “The field of public administration faces a large new task to understand the workings of the rapidly evolving system of local governance – now private and public – and setting the policies to guide it.” (Nelson, 2011, p. 549). Cheung and Meltzer (2013) note that the emergence of HOAs has had significant effects on local land use regulations – issues vital to Rosemount as it expands to meet its 2030 population projections - but “[t]he empirical literature on the association between HOAs and local land use regimes is thin to nonexistent” (p. 514). And researchers have little information to guide their inquiry the way they do on other levels of demographic data. “The U.S. Census of Governments still collects essentially no information on HOAs, leaving a gaping hole in the public database of American Government” (Nelson, 2011, p. 546). The presence of HOAs has significantly affected the communities in which they exist, but they have not been adequately studied.

Common interest communities, an umbrella term that includes HOAs, have received some scrutiny in the academic literature. Some authors such as Franzese (2005) expressed concern about the powers of a CIC to excluding individuals who don’t conform to CC&Rs, while others such as French (2005) have noted how municipalities can shift what were once public expenses such as road building and maintenance, onto private HOAs. This creates a set of expectations from homeowners onto both the municipality and the HOA in which they live.

Some authors have keyed into the lack of research regarding the prominence of CICs. “Much more empirical attention must be given to the phenomenon of ‘privatization’ as reflected in privatized modes of governance” (Franzese, 2005, p. 335-336). But while they are under-researched, they are

understood to have a specific legal construction recognized in contemporary jurisprudence as arbiters in and of themselves for the homeowners who live within their bounds. McCabe (2005) outlines how, because “...courts view HOAs as business enterprises rather than as governments, HOA's governing provisions are not required to conform to basic democratic principles for participation” (p. 404). The need to better understand this area of research, therefore, is important given the power of an HOA to sanction residents who don't comply with CC&Rs. In addition to going above and beyond municipal units of government, HOAs affect a significant element of concern for all property owners: land values. Scheller (2015) shows how HOAs have a more significant effect on property values than another form of community participation, the neighborhood association.

This leads us to our next literature theme, one that is familiar to those public servants who regularly engage with residents, a theme that focuses on considering opportunities to engage communities. Building on the work of authors such as Barbara Crosby, John Bryson, and Kathy Quick, we see opportunities to create mechanisms of engagement that can be utilized by both HOA members and city staff to leverage the interests of community members. Similarly, city staff can utilize contemporary community engagement models to better disseminate information across the HOAs in its community to more efficiently deliver services.

A highly influential and accessible meta-review of community engagement literature was published in 2012 by Humphrey School professors John Bryson, Kathryn Quick, Carissa Schiverly Slotterback, and Barbara Crosby titled “Designing Public Participation Processes - Theory to Practice”. Among the most salient points relevant to a discussion of the relationship between Rosemount and its stakeholders is that there is no “one size fits all”, concrete process for a unit of government to undertake as it seeks to connect better with its residents. Rather, the work must be *iterative*; that is, people who work in the public sector need to be able to shift gears readily as they develop policy that addresses challenges and opportunities. These researchers summarize that “... we find it neither feasible nor advisable to generate ‘rules’ or a step-by-step design template for organizing public participation. Indeed, a consistent implication of design science and of the diversity of evidence-based research findings synthesized here is that successful public participation requires designing iteratively, in response to specific purposes and contexts” (Bryson et al., 2012). In other words, it must be understood and appreciated that these engagement strategies must have a spirit of innovation and flexibility baked within.

## Rosemount City Structure

According to Rosemount’s website, in January 1971, the village and township of Rosemount merged. Rosemount became a statutory city in January 1975, with the basic form of government being a mayor, city council, city administrator, and city clerk. Rosemount is a weak mayor-council Plan A city, by far the most common plan in Minnesota, according to the website of the League of Minnesota Cities. Under the weak mayor-council plan, administrative as well as legislative authority is the ultimate responsibility of the council unless the council has created an independent board, such as a utilities commission, to handle one or more specific functions. The mayor’s powers in weak mayor-council communities are no greater than those of any other member of the council, with the exception of the mayor’s role as presiding officer at council meetings and several other minor duties. No individual council member holds specific administrative powers. Many statutory Standard Plan and Plan A cities, including Rosemount, create a city administrator position by resolution or ordinance and specify the responsibilities of the position. City administrators are appointed because of their professional qualifications; this is not a political appointment.

The City Clerk maintains public records, including the official documents and actions of the Rosemount City Council and the ordinances of the city. The Clerk also supervises elections and has responsibilities in licensing, including applications for block parties. The Clerk is designated as the Responsible Authority for the City of Rosemount under the Minnesota Data Practices Act.

The following departments and commissions represent key governmental stakeholders for this project, with their description as enumerated from the City of Rosemount's website. Each of the following departments need to be engaged to effectuate more meaningful HOA and city interactions. City leadership needs to think about these departmental functions in a holistic and comprehensive way, just as the recommendations successfully rest on a “whole of government” approach.

## Administration

Administration links all other departments and city employees with the City Council, is responsible for implementing City Council policies, for the administration of general or multi-departmental organizational activities, and for human resources. It administers policy set by elected officials, ensures compliance with relevant local, regional, state, and federal laws and codes, and maintains communication links between all parties that do business with, for, and within the city. Administration only has a peripheral supporting role in the HOA engagement opportunity discussion.

## Community Development

Community Development performs functions related to protective inspections, land use planning, development plan review, redevelopment, and economic development. The Department also administers land use controls and implementation of the Comprehensive Plan in a manner consistent with city policies. The Department also promotes quality development aimed at creating a diversified tax base and a variety of housing opportunities. It is responsible for the administration of State Building Code regulating development to assure well-planned developments that offer a high quality of life.

For the purposes of this capstone project, the Community Development Department is also an important link when considering that it is the gatekeeper of PUD projects. In addition to encouraging PUD development that meets the needs of the residents, this department also is the nexus between the City and future developments that add value to the real estate stock. Acting upon the stated or implied vision and values regarding what future HOAs look like, specific roles and responsibilities will be developed through this area of city administration.

## Public Works

The Rosemount Public Works and Engineering departments are responsible for the design, construction, and maintenance of the City's streets, water, sanitary sewer, and storm sewer systems. Public Works staff is also responsible for maintaining the parks, sidewalks, trails, and all city buildings and vehicles. The Public Works Department operates according to council-approved quality standards.

The strongest intersection of public and private responsibilities reside here. For example, the maintenance of boulevard trees is generally a public function and were traditionally planted and maintained by a public agency. There may be developers and HOAs, however, that wish to have a denser tree canopy than what the city is willing to provide, so the HOA uses its own funds to purchase additional trees and landscaping. But because it is not obvious to the casual observer that a tree on one side of a street might be public and a tree on the other might be private, the challenge of determining what to do with a constituent's concern becomes even more profound.

## Planning Commission

The Rosemount Planning Commission is an advisory board to the City Council that helps review plans and development within the city. This commission, serving on a rotating basis, is the juncture between the city's comprehensive plan and the developments that occur in the future. They act as the gatekeepers between the development community and what future neighborhoods ultimately look like by developing the policy that development staff follow. Their role in the HOA discussion is supportive in

nature, assisting the Community Development Department and City Council in understanding the complex nature of PUD projects, and recommending standing language and actions that benefit the greater Rosemount community.

## RESEARCH METHODOLOGY

### Initial Exploration

We first developed our research questions with the expectation that gathering and collating the original HOA paperwork for each development would be somewhat simple. We almost immediately discovered, however, that the documentation was not generally filed in one central location, instead remaining with the HOAs themselves or were not readily indexable within the city or county records. Additionally, after our interviews with the city we found that the specific HOA documents and the bylaws defined within were secondary in relevance to the larger picture of community engagement. Because of this, our research questions pivoted from the development of a matrix that analyzed differences between them to an exploration and understanding of the history of CC&Rs and PUDs and the development of a community engagement strategy that plays to the strengths of both the HOAs and the City of Rosemount.

### Research Focus

The research is focused on engaging with stakeholders on all sides of the HOA and city intersection. Informed by our understanding of the themes of the legal context of HOAs as well as contemporary community engagement methodologies, we conducted interviews with individuals in positions that surround the issue. By engaging with these stakeholders we were able to identify common themes, areas of mutual interest intersection, as well as areas of interest divergence. Further, by designing the interviews around the concepts developed in the research questions, we were able to find new ground that Rosemount and its HOAs can use to frame the issue and develop more effective relationships.

### Research Questions

The capstone group embarked on the project by developing a set of research questions that best arrived at what we saw as key leading questions to identify information surrounding the issues Rosemount faces. They are:

1. What are best practices for communication in cities with similar HOA populations?
2. How is communication happening between the City of Rosemount and HOAs?
3. How can city staff utilize community engagement models to communicate with HOAs?

## Interviews

Our team interviewed the Assistant Public Works Director as well as the Community Development Director for the City of Rosemount; Inter-Governmental Relations counsel for the League of Minnesota Cities; the President of Minnesota chapter of the Community Associations Institute and New Concepts Association Management; the President of Liberty on the Lake, a comparable community HOA in Stillwater, Minnesota; as well as the Economic Development Coordinator from the City of Burnsville, Minnesota. Matrixes of the interviews can be found in Appendix A.

# RESEARCH OUTCOMES

## Findings

Research Question One: What are best practiced for communications in cities with similar HOA populations?

The first research question centers on the idea that Rosemount is not alone with the issues it faces given the explosion of HOAs since the 1960s. The capstone team sought to address this research question of best practices by interviewing the President of the Minnesota chapter of the Community Associations Institute (CAI), interviewing the President of Liberty on the Lake, an HOA in nearby Stillwater, Minnesota, and examining the similarly-situated neighboring community of Burnsville.

The interview with the President of CAI, Gene Sullivan, confirmed our initial assessment in the literature review that the topic of communication and collaboration between municipalities and their HOAs is not something that anyone seems to be actively engaged in at a high level. Enough variance among similar communities exists, however, to draw out some useful comparisons of what works well, and what hasn't been effective. Some governmental organizations encourage and emphasize networking and self-empowerment within HOAs, for example. While both existing and emerging HOAs have common issues, those where a proactive communication framework is developed tend to be more engaged and effective.

Mr. Sullivan cited a number of positive examples of how communities can come together to leverage their strengths as well as a couple of examples of what didn't work so well. Examples of positive engagement, according to Mr. Sullivan, include hosting events that bring community members out into a space where they can learn about the unique features and responsibilities of living in a HOA. The local Government has an opportunity to host events such as these in concert with the HOA boards within their communities. These events would serve as education opportunities as well as connecting residents to their board members and the local government.

One initiative cited by Mr. Sullivan that didn't work as well were full-time, paid city ombudsmen positions created to manage these relationships; upon reflection, these individuals did not have the skillsets to effectively understand the HOA industry and did not provide value for their cities. At the same time, other communities have had success with these initiatives. Missouri City, Texas, for example, has found that a Community Engagement point person is an effective use of resources. That community is large enough to support an individual in an ombudsman role to detect, research, and resolve complaints or other issues among the city's HOAs. While Rosemount might not be large enough to support such a position now, the creation of something along these lines might be valuable as the city approaches its expected 2030 population. Additional research showed other cities and states maintained similar staffed positions, such as the State of Virginia's Officer of the Common Interest Community Ombudsman.

The theme of Mr. Sullivan's comments encourage a higher degree of empowerment and self-reliance on the part of homeowners living in HOAs. Most homeowners who want to take an active interest in their communities and HOAs offer a unique ability to work with a collection of others who have the same interest to work in a self-governed context; the best thing a municipality can do is facilitate the transfer of that homeowner energy into something positive by promoting greater communication of what HOAs can do, not what government can do.

The capstone group also sought to learn what the City of Burnsville has done with its HOAs, interviewing Skip Nienhaus, the Economic Development Coordinator for the City of Burnsville. Where Rosemount is in a growth mode, Burnsville is much more established having almost all of its land area, 97%, developed. They take a two-pronged approach to engaging all of their residents: Two FTE staff form a Community Services unit; this is in addition to staff who focus on code enforcement. Burnsville has added these positions and communications frameworks after the HOA communities matured, but they are still ahead of the median of other communities with similar HOA densities. This city also

completes its goal of inspecting the community routinely, examining one third of the residences and businesses annually for code enforcement. By proactively engaging with residents and property owners, they are able to detect and resolve issues while they are small – before they develop into larger, more difficult to solve problems. According to Mr. Nienhaus, most residents and business owners feel much more engaged and happy to resolve issues under this concept; residents and business owners feel like city resources are valued assets to the community for problem identification and resolution.

Todd Remely, President of Liberty on the Lake, an HOA in the comparable community of Stillwater, Minnesota, echoed Mr. Sullivan’s themes of self-governance. By encouraging personalized relationships, the interactions are seen as between individuals representing the city and HOAs, as opposed to contending groups working for their own purposes, and not the common good. When positive interactions are enjoyed, HOAs are empowered to run as “cities-within-cities,” or as small corporations functioning as a self-contained entity in Mr. Remely's view, and the relative strengths of the HOAs as well as their host municipalities are best leveraged.

The strongest way to achieve this state of successfully leveraged relationships, according to Mr. Remely, is to maintain consistent, disciplined interpersonal communication, both with the city as well as with CIC residents. Technology such as email or a website can support this, but it is a tool not a substitute to engagement between the diverse parties that are the HOA and the city or the residents. Knowing which parties are most effective at addressing given situations is very helpful. And while technology can expedite these conversations, it falls short in harnessing crowd energy. Here, Mr. Remely relates the idea of building a user forum into the HOA website for HOA residents that can serve as a virtual common space for residents to address concerns that affect the common environment. Instead of committing to go to a meeting to bring up a concern, perhaps information could be shared and solutions crowd-sourced. This user forum, backed with a frequently asked questions (FAQ) section, can be replicated at both the city and the HOA levels.

#### Research Question Two: How is communication happening between the City of Rosemount and HOAs?

Understanding the current exchanges of information and regular communication between the two entities is important in understanding the contemporary dynamics at work. As we conversed with Christine Watson, Public Works Coordinator and Kim Lindquist, Community Development Director for the City of Rosemount, it became clear that there are more underlying opportunities to explore beyond

the symptoms that present concern to public works line staff or those who have direct interaction with the community members and residents.

Through our conversations we found that there are several communication opportunities that are underutilized as part of the process between formation of the HOA and when developers leave a development site. Additionally, there are many transitions happening between the HOA board members themselves, leaving training and education opportunities with the new leadership. While Ms. Watson and Ms. Lindquist stated they have limited interest in what each HOA document may say due to the limited extent of the city's authority in this domain, there are opportunities to educate residents on their HOA's responsibility within their specific development. Just because there are issues that are principally within HOAs' jurisdiction does not preclude the city from, for example, educating HOA residents on their responsibilities and the expectations that are enforced by the HOA; equally, a resident might just as likely complain to the city when they are cited by an HOA as opposed to addressing the matter directly with the HOA, thereby placing the city in the middle of this issue. The symptoms the city staff are seeing that support the need for education consist of boulevard trees that block speed limit signs, confusion over who can enforce what structures can be present within a yard, resident or HOA understanding of responsibilities for storm water pond maintenance, and various other concerns raised by residents who aren't educated in either theirs or their HOA responsibilities as a member of a common interest community. Despite where the responsibility of these issues lays, the city can take the lead to improve education and increase livability through engagement.

### Research Question Three: How can city staff utilize community engagement models to communicate with HOAs?

Lastly, the third question asks what types of contemporary community engagement strategies can be developed and employed by Rosemount to build towards a more engaged path. Here we take the points made by Bryson and Crosby (2006) that we exist in a "shared power world" where people "must share objects, activities, resources, or authority to achieve collective goals or minimize losses" (p. iv). As noted above, the power structures of HOAs and municipalities are fairly defined in law; it is in the day-to-day operational aspects that opportunities exist to exploit Bryson and Crosby's concepts that organizations that network together can be the most effective at solving problems (p. 5). This relies heavily on the concept that any initiative developed needs to be adaptive and iterative. Just because an initiative worked in one city is not a predictor that it will work for Rosemount, or perhaps that it might not work in the same way. It is important that policy professionals adapt as feedback is received.

Authors Gerencser, et al. (2008) in their book, “Megacommunities: How Leaders, Government and Non-Profits Can Tackle Today’s Global Challenges Together” discuss the importance of developing an “us *with* them” versus an “us *versus* them” strategy (p. 193). This strongly echoes the comments of Mr. Remely, who advances a viewpoint that HOAs and city staff need to support and develop positive ways to work together to find and leverage each others’ strengths, not focus on the differences. There are inherent differences in how public organizations function compared to private ones; the area of opportunity is to find the common ground.

The scope of the initiative that the City of Rosemount requires is yet to be determined. The appetite of the organization will determine whether it produces a small change in how work is done or whether it is something larger. Jean Hartley (2005) talks about when a change in a process becomes innovation, and if it reaches that point, what it looks like. In other words, the City of Rosemount needs to decide if it’s going to tweak a process or incorporate a broader vision into its organizational structure, even if the City is aware that the resources currently do not exist to implement it.

City of Rosemount leadership should not be hesitant to offer their expertise in the co-creation of solutions. Bason (2010), in *Leading Public Sector Innovation*, emphasizes that employees in a governmental agency can be in the best position to offer guidance on potential changes and innovation (p. 116). Additionally, they are likely to gain satisfaction when those changes go right, as well learn from the mistakes of initiatives that aren’t as successful.

## The Way Ahead

### Reframing Perspectives on HOAs

The rise of the HOA as an intermediary institution between government and residents is a phenomenon that is likely to expand as Rosemount itself grows. Because the preeminence of the HOA will increase and mature as the population grows, we see an enormous opportunity to create frameworks to constructively manage and create positive relationships between the city and HOAs.

The first and most powerful step that supports this is to reframe the relationship between Rosemount and its HOAs from being a series of small-level problems that each require individual solutions to a systematic and holistic set of opportunities that flows from the mindset that sees HOAs as a valuable community asset. This alternate viewpoint represents a shift from a legalistic approach to a public affairs one; instead of seeing individual issues and responding in an ad hoc way, we recommend the development and application of a leadership value that takes a “whole of government” approach.

Rosemount should embrace this reframed perspective from the leadership level, through the management positions, and all the way to the daily staffing level.

Tina Nabatchi (2012) describes the IAP2 process of public participation as being a spectrum that moves from “inform” emerging public policy issues up through several phases including “consult”, “involve”, “collaborate”, and finally, “empower”. We see the relationship between Rosemount and its HOAs as being somewhere among the first several phases of this spectrum, as shown in Figure 2 below. If Rosemount can successfully reframe HOAs from being individual problems to a holistic opportunity – where each partner can leverage their own strengths and also learn to best work towards the strengths of the other – then it can move to a more productive phase of the IAP2 spectrum, such as “empower”, also depicted in Figure 2. In other words, reframing the issue through an “opportunity” lens can result in more “win-win” situations than continuing with the status quo.



Figure 2: A New Perspective: The IAP2 spectrum of public participation.

## Public Participation Process

Contemporary community engagement practices are the key to implementing the reframing of the issues mentioned above. The first thing to know about community engagement practices is that they can be complicated, occurring at many levels of government but often in an uncoordinated way. When residents or HOA officials are receiving unaligned responses from government officials, the relationship between HOAs and government is less likely to be seen as an asset. Community engagement practices solve this.

The second thing to know about community engagement practices is that there is no “one size fits all” solution that will work. Rather, any designed initiative must be implemented with an understanding of and commitment to the idea that every action must be *iterative*. As noted in the literature review, Bryson et al. (2012), talk about the “cycle of public participation process design” where public engagement initiatives need to be designed for a particular context and purpose, the participation itself must be adequately managed and supported, and the participation finally evaluated and redesigned to ensure that the goal was reached (Bryson et al., 2012). This concept is briefly illustrated in Figure 3 below, and represents consolidated, researched design guidelines to use when initiating and following through with community engagement practices.

It is not sufficient to hold a community meeting, or even a series of community meetings, and think that enough has been done. The actions need to be designed to fit both the nature of the opportunity (reframing HOAs as a community resource that facilitates better service delivery for the City of Rosemount as well as a better value for its residents) as well as the context of the action (a community meeting hosted by the city, a routine outreach visit to an HOA board meeting, etc.). Lastly, a strong effort must be made to go back to the table after every initiative and assess whether it met its goal of working towards reframing HOAs as an opportunity. There will almost always be opportunities to improve, and they must be detected, evaluated, and resolved. Those improvements can then be incorporated into the next iteration of an engagement action.

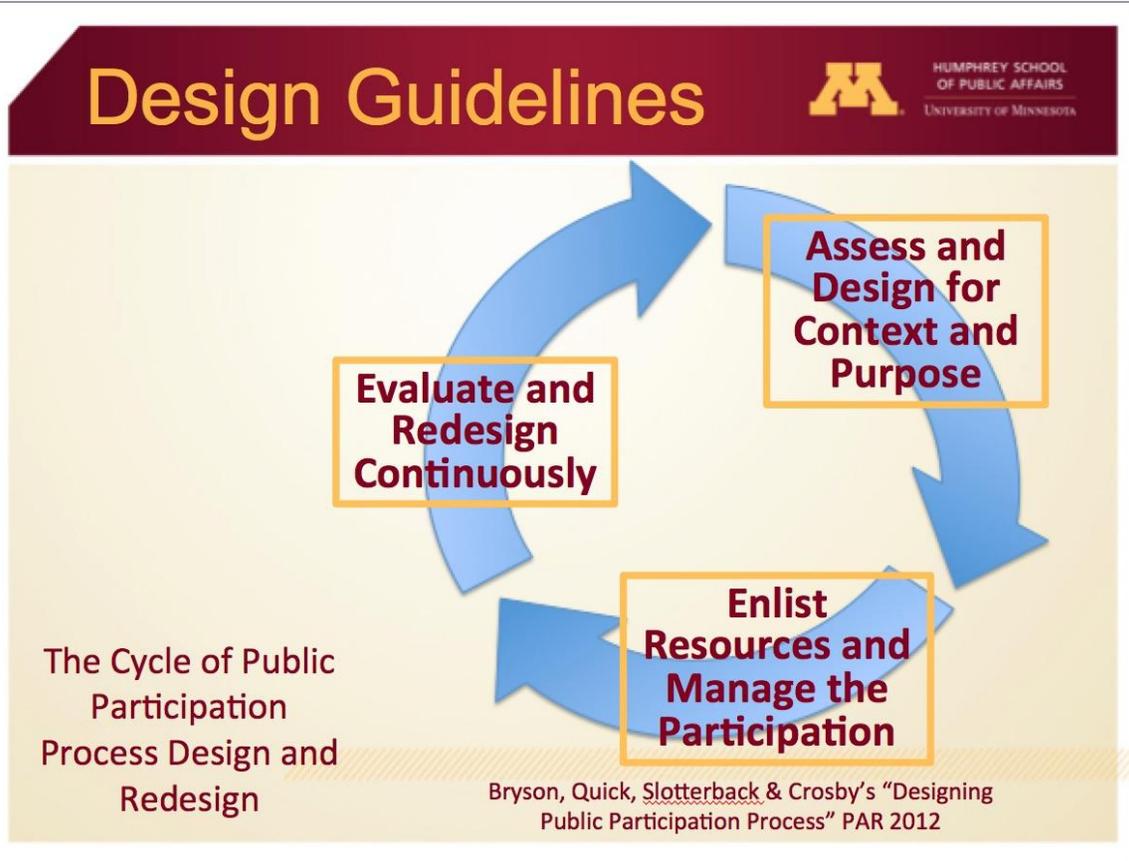


Figure 3: Design Guidelines: The cycle of public participation process design and redesign.

### Actions for the City of Rosemount

Notwithstanding the foregoing, there are actions the City of Rosemount can take now that will begin to help Rosemount reframe this issue. To summarize from our comprehensive list of promising practice alternatives found in Appendix D, we break these actions into three themes under the general framework that HOAs are essentially cities within the City of Rosemount: incorporating HOAs into overall strategic direction planning; inviting the HOA community into city marketing and events; and building ongoing relationships with HOAs.

To include HOAs in the strategic planning process, city leadership should consider adding an element to its upcoming 2040 overall comprehensive plan that reflects this inclusion. To support this, the city should also develop an institutionalized communication methodology that connects with both recent and mature HOAs. This communication methodology should be formal, but user friendly. One element of this methodology that can be undertaken in the short term is to create a detailed page on the City of Rosemount's website that is specific to HOAs; such an online resource could include FAQs for

frequently-encountered issues, links or contact information for further assistance, and information for management companies and residents.

Inviting the HOA community to participation in city marketing and events similarly has both short and long term opportunities. Including HOA community information at city events such as Leprechaun Days and National Night Out/Night to Unite is an intuitive and relevant opportunity to share information. The city could sponsor a biannual tree-trimming and community clean-up day; residents engaging in these activities could provide a crowd-sourced opportunity to trim the very trees that brought this project to the capstone Group's attention in the first place. The latter case is a perfect example where the city must reframe thoughts on how it can facilitate HOA and resident success in implementing this initiative, rather than just simply ensure resident compliance. Further details for this and the other initiatives can be found in Appendix D.

Lastly, the ongoing relationships that will support reframing HOAs into an opportunity need to be supported with city staff effort. This will take a number of different initiatives, again both across short term and long term horizons. In the short term, current city staff can be empowered to better manage city growth with the expectation that reframing the HOA experience is going be part of immediate efforts. In the long term, as the city grows, it should consider formally investing additional staff hours, or even the addition of an FTE, to expand the capacity of the city to work constructively with its HOAs, as the roles of both grow.

## RECOMMENDATIONS

The following recommendations serve as a tactile solution set that is best implemented by combining with a framework that views common interest communities as cities within a city (similar to how police and fire precincts serve as proxies in larger cities) and then promotes actions that enable their success. Under a reframed perspective where the government views homeowners associations not as problems, but rather as opportunities for community engagement, can facilitate incorporating win-win concepts that go well beyond "resident compliance" as the sole measure of success. These alternatives are intended to enable that very shift, if the long-view is taken and efforts are consistently applied over time.

## **1. Incorporate HOAs into Overall Strategic Direction Planning**

- Include HOA community engagement as a key element of the overall comprehensive plan for 2040
- Generate institutionalized methodology for communications
  - Relational aspects are important, but cannot be the sole method due to the large number of HOAs and their various board members and management companies, and their frequency of turnover
    - Nonetheless, City leadership and management should be assigned to each HOA as a point of contact for HOA presidents to communicate with
  - Formal process needed, but not onerous
  - Must communicate with both recent and mature HOA communities
- Improve City of Rosemount website with detailed information for HOAs
  - Include in this page a feedback mechanism, such as a common, frequently updated Q&A deck that has real-world examples recently encountered by city staff, along with resolution and points of contact
  - Include the comprehensive training package for developers, management companies, and HOA presidents
  - Provide example and assistance in HOAs setting up their own websites, with a welcome section, legal documents, and effectively a “welcome wagon” for new residents

## **2. Invite HOA Community in City Marketing and Events**

- City provide (or contract for) a comprehensive training package for developers, HOA management companies, and presidents of HOAs
  - Ensures passing of information between developer-led HOAs and resident-led HOAs
  - Provide to developer upon approval of PUD, and before transition of HOA operations
  - Provide on recurring basis for new management companies and new HOA presidents
  - Archive the training online, for future access/reference
  - Develop “Welcome Aboard Packet” for new HOA community residents
- Institutionalize standalone annual City of Rosemount/HOA communities open house
  - Goal of being city and HOA operating more as partners in the betterment of the community, and to promote Rosemount as a livable community
  - Co-sponsored by Community Development and Public Works Departments
- Include HOA community information booth at various city events, such as Leprechaun Days and National Night Out/Night to Unite
  - Provide handouts and flyers, advertising meetings, upcoming events, website, etc.
  - Expand HOA information activity to other collaborative events, such as meetings where Minnesota Pollution Control Agency’s permitting and education requirement take place

- Under the umbrella of enabling HOA communities' success, sponsor a twice-yearly (mid-spring, mid-fall) city-wide tree trimming and community cleanup day
  - Widely advertise these two days, serving as anchor points in Rosemount's annual calendar
  - Provide Community Development and Public Works experts to help identify offending areas and actively assist HOA communities in common interest area maintenance
    - City work with HOA management companies and presidents to inspect HOA community on a rotating basis (say each HOA community once every three years, on a rotating basis throughout the year, akin to what the City of Burnsville does with infrastructure and code compliance checks)
  - Provide access to Public Work tools and equipment by developing a "tool shed" for equipment checkout
  - Partner with local tool and equipment rental companies to incentivize homeowner rental of gear on these designated days/weekends
  - Tie this activity to community-wide annual waste management cleanup of recyclables, yard waste, and hazardous materials/electronics disposal days
  - Encourage innovative and catchy advertising, such as "adopt a sewer/tree/street/drainage pond/etc."

### **3. Build Ongoing Relationships with HOAs**

- Dedicate or hire part time employee to liaise with HOAs
  - Technically speaking, serve as Common Interest Community Ombudsman
    - Alternatively, could serve as head of "Department of Neighborhoods"
  - In lieu of new hiring, assign both a Community Development planner and a Public Works employee with this duty
  - Additionally, serve as an arboretum and/or pollution control expert to liaise with HOA residents, assisting them in the maintenance of HOA community common and limited common elements
  - Develop a city employee with the skill set and capacity in house to manage city growth, to include liaison with HOAs
  - As an example, Missouri City, Texas, has implemented a full-time HOA position
  - Incorporate a record-keeping system that houses all HOAs CC&R, PUD, and potentially association documents, so they are available for future reference
  - Standardize a HOA template, recommended for use by the city within Rosemount; amend a new concerns arise and require resolution via this method

## LIMITATIONS

Our team assumed that access to the CC&R, PUD, and HOA documentation would be simple. It is not. HOA documents are not gathered in one centralized location; they become contracts between homeowners and their respective HOAs with little involvement or oversight from the municipality. CC&R and PUD documents are wide ranging and not easily retrievable through county nor city sources. This has caused our original focus to pivot to building a community engagement plan that bridges homeowners and the municipality rather than a matrix that explores the differences between specific HOAs and their evolution over time.

The status of the capstone in a compressed summer semester created some natural access issues that made it difficult to uncover information in partnership with our client. Detecting the presence of information and being able to retrieve and analyze it had to occur at a faster pace, but the capstone group was able to do so in a comprehensive manner. We express deep gratitude to all of our partners for helping us meet the challenge.

## CONCLUSIONS

We can group the themes upon which the conclusions are likely to rest: First, the City of Rosemount needs to bolster communication between its established HOAs and municipal officials. This can be done through focused community engagement efforts including outreach at community events, online resources, and relationship building. Second, Rosemount needs to become more strategic about its delineated responsibilities as the CICs are being developed through the PUD process before they are managed by HOAs. Lastly, the City of Rosemount needs to support both of these efforts better by either realigning their existing management structure and staff to think about these relationships strategically, or it needs to invest in additional staff so these important emerging relationships don't fall by the wayside and opportunities for smart growth go overlooked.

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## APPENDICES

Appendix A: Interview Summaries

Appendix B: Academic Literature Review

Appendix C: General City of Rosemount Information

Appendix D: Community Engagement Promising Practices

Appendix E: Presentation Handout & Capstone Project Poster

## Appendix A: Interview Summaries

### 1. Patrick Hynes (representing both statutory city and HOA perspectives, as well as their professional associations)

Interviewers: Laura Huiras Ziegler, Christine Weber Carle, and David Ratte

Interviewee: Patrick Hynes, Inter-Governmental Relations Counsel

Date: June 11, 2015

#### Overall Summary:

- When establishing a Planned Unit Development, or a Common Interest Community, the state mandated Declaration of Covenants, Conditions & Restrictions constitutes the fundamental legal document establishing the elements of community and individual property ownership.
- While detailed and essentially directive, it cannot lessen restrictions imposed by city, county, state, and federal laws and regulations. It is also this document that will outline the interface between city and resident responsibilities, outside that which is enumerated in city ordinances.
- The best time for a city to influence a homeowners association is during the city’s interaction with the developer throughout the subdivision approval process, before the Declaration is filed.
  - Retaining Declarations in one location can aid in future enforcement, but with the wide variances of Declarations in a mature but still growing community such as Rosemount, not all of which may reflect current realities & practices, it is difficult for a city to connect with the wide variety of homeowners associations and few city employees.
- A City has been granted by the State a variety of carrots and sticks it can yield. However, best to enter the conversation with the notion that we’re in this together to the benefit of us all; each with their own responsibilities, some of which is driven at the county, state, or federal levels (such as the federal Clean Water act).

Question	Response
<p><b><i>Q1 (0:50) Expand a little bit on your background at the League of MN Cities and at Community Associations Institute and anything pertinent to the issue [of HOA collaboration with cities].</i></b></p>	<p>Summary: Interviewee has broad background of technical knowledge and practical experience with homeowners associations from multiple perspectives, to include legal, legislative, and personal. There are three different types of property in an attached unit homeowners association: the unit, common elements, and limited common elements. These distinctions drive responsibilities for maintenance and repair. The differing governing documents addressing homeowners associations are the Articles of Incorporation (establishing it as a nonprofit organization and filed with the respective state Secretary of State), the Declaration of Covenants, Conditions &amp; Restrictions (fundamental legal document establishing property elements (per above) and legal issues not delineated in other federal, state, county, local levels and filed with the county), HOA bylaws (outlining board elements and general rules and kept with the management company), and HOA rule and regulations (outlining specific resident rules and kept with the management company).</p>

	<p>Lastly, governing Minnesota statutes may be found under the Minnesota Condominium Act Chapter 515, Uniform Condominium Act Chapter 515A, and Minnesota Common Interest Ownership Act Chapter 515B.</p>
<p><b>Q2 (18:20) You have extensive experience working between the HOAs and residents and those types of litigation measures. What areas would the limited common elements include, such as front yard, or back yard, or sidewalk?</b></p>	<p>Summary: The Declaration is key to identifying the types of property in homeowners associations, which will vary greatly depending upon the category of subject property (i.e., condo, townhouse, single-family, detached/attached). Reason for homeowners associations vary greatly, to include as simple as solely providing for the upkeep of the community's entrance, to as complicated as imposing strict standards of resident behavior and responsibilities, enumerating real property standards, and upkeep of common areas such as pools or parks. However, nothing in the Declaration or other homeowners association can lessen the restrictions imposed by city, county or state regulations. The impact on the Rosemount project is to emphasize it's the Declaration (or Planned Unit Development) that provides the interface between city and resident responsibilities, outside that which is enumerated in city ordinances.</p>
<p><b>Q3 (25:20) I alluded to our biggest challenge is trying to find promising practices for cities to identify best HOAs, especially in Rosemount with 38 HOAs where this is pretty decent area of their city. Can you speak to anything from a city perspective that would be a good practice they could do in order to build a relationship with HOAs so they can address issues as they arise?</b></p> <p><b>Q3a (28:50) What dictates, beyond ordinances at the city level, that which is to be included within a declaration? State law, city planning rules, county level?</b></p>	<p>Summary: The best time for a city to outline responsibilities for future homeowners association residents is during the city's interaction with the developer throughout the subdivision approval process, and via the Declaration or Planned Unit Development documents. Retaining Declarations/PUDs in one location can aid in future enforcement. The state statutes provide great flexibility to what the cities can require of developers (and residents by extension), but also is a source of friction. One of the benefits to a city that homeowners associations bring is some control over a large number of units instead of dealing with individual homeowners. Homeowners associations may be self-organized or organized through a professional management company. Older communities with homeowners associations is more difficult for a city to connect with due to the difficulty in identifying them, as well as dealing with a variety of prior-approved Declarations/PUDs that may not represent current realities/practices. While there are property rights, there are always exceptions, and recent legislation has chipped away at the control of condo (attached dwellings) associations.</p>
<p><b>Q4 (45:30) Shifting gears to the city government, if the city government were to implement best practices, who should be involved when dealing with the developers? Planning Commission, City Administrator?</b></p>	<p>Summary: The Community Development Director is a key player in dealing with developers in implementing best practices, as they are working directly with developers and will be the ones bringing proposals before the Planning Commission or City Council. Similarly, the Public Works Director is the principal player in his or her respective area, but should not supplant the Community Development Director, as they interface with people and</p>

	<p>developers routinely, whereas the Public Works Director is more focused on specific infrastructure.</p>
<p><b><i>Q5 (49:35) One of our challenges is trying to identify a model city dealing with this area and what they are doing to address the issues. Have you seen in your experience the potential for shared responsibilities between residents or HOAs and the city? Any examples of litigation in this area, or examples of cities that are successful in addressing these issues?</i></b></p>	<p>Summary: If disagreements lead to a lawsuit, the League of MN Cities represent cities that are sued; contrarily, the League does not sue on behalf of a city. If you did want to research this aspect from a lawsuit perspective, best to begin with court of appeal opinions. Eagan or Burnsville are likely cities to review, as they have been growing quickly in the past 10 or 20 years like Rosemount. The mere fact that the city is asking to have all HOAs identified tells a lot about the challenge, as we normally would say, let's ask the city.</p>
<p><b><i>Q6 (56:40) Through your experiences, direct or indirect, how do these two get together – the City of Rosemount and the citizens who live in HOAs or the Management Company or president of HOAs. Elevating from a legalist level of discussion to more the public affairs arena, any thoughts?</i></b></p> <p><b><i>Q6a (1:00:48) From the HOA citizen perspective, how would it have to be presented to you so that you would suddenly want to care about this perceived city problem?</i></b></p>	<p>Summary: A prime opportunity for the city to reach out to board of directors and talk about some of the city concerns or perspectives is during regular meetings all homeowners associations hold. An efficient way to connect with multiple organizations at once is for the city to sponsor a meeting with a group of homeowners associations or management companies. The city does have a variety of (carrots and) sticks it can yield. Best is to enter the conversation with the notion that we're in this together to the benefit of us all; each with their own responsibilities, some of which is driven at the county, state, and federal levels (such as federal Clean Water Act). Cities can take steps to force people to do it, or the city takes it on and assesses properties later. A pretty strong stick is for the city to engage a homeowners association in litigation, which can affect current homeowners in selling their home.</p>

2. **Christine Watson and Kim Lindquist (representing City of Rosemount perspective)**

Interviewers: Laura Huiras Ziegler, Anthony Kelly, Christine Weber Carle and David Ratte

Interviewee: Christine Watson, Public Works Coordinator and Kim Lindquist, Community Development Director

Date: June 17, 2015

Overall Summary:

- Main goal of this report (per Kim):
  - Firm up processes
  - Delineate expectations
  - Homeowners understand roles
  - HOA standards enumerated
  - Tie to larger picture of Rosemount
- And how to use report for a long term impact
  - Generate more institutionalized methodology for communications
- Breakdown of issues are: Rules problems = Community Development; Maintenance problems = Public Works; central to both is customer service creep that is difficult to stay ahead of due to limited governmental resources, as well as the changing dynamics of HOAs, such as developers, property management companies, HOA leadership, and citizenry.
- Aligning HOA rule sets as enumerated in Declarations during the PUD process is necessary, but not sufficient due to the dynamic nature of community development and the static nature of Declarations, and by extension, homeowners associations. Additionally, simply enumerating HOA standards is also not sufficient, as there are as many different HOA versions as there are individual Common Interest Communities.
- Police serve as city proxy in larger communities, such as St. Paul districts; why not use HOAs in this manner

Question	Response
<b><i>Q1 (0:10) What do you see as the real issues and the problems?</i></b>	Summary: There is a gulf between the PUD and HOA document processes that the developer has full exposure to, but the city does not. Ultimately, the resident may know about the HOA documents, but few know about the PUD (and CC&R) agreements that the developers signed them up to. Firming up process and expectations of responsibilities is critical, through better communications. This is manifested more in mature neighborhoods. Use of HOAs as a proxy for neighborhood watch or communication tool, much like St. Paul with the districts, resonates.
<b><i>Q2 (4:40) What kinds of specific issues are citizens coming to the city with?</i></b>  <b><i>Q2a (6:20) Do you have other examples, or amount of staff</i></b>	Summary: The city gets thrown into a number of scenarios by around about means. Ultimately they play out as no win situations. They are not huge, but they are regular. It is typically a few HOA generations down the road where they surface. More effective communications remains the general theme. Most residents do not understand who is responsible, whether city, HOA or individual resident.

<p><i>time, or what gets to the council level?</i></p> <p><b>Q2b (11:40) I would imagine each HOA agreement are different?</b></p>	
<p><b>Q3 (12:50) Can you walk us through the PUD process?</b></p> <p><b>Q3a (17:50) Are there ordinances that applies to PUDs or is it just Planning Department requirements. State level?</b></p> <p><b>Q3b (20:00) How does this relate to CC&amp;Rs?</b></p>	<p>Summary: The PUD agreement really comes from boilerplate language the City Attorney drafted. It involves assurances of compliance with city regulations as well as conditions of approval, which gets added to the agreement and recorded against the property. The city has not categorized prior PUDs and amendments, nor does it have visibility on HOA documents or interpreting those that exists. Desire a more institutional methodology of better communication; it's a long-term process of educating the new residents. Leading thought is a one-a-year event where HOA leaders are invited to an open house to keep the names and faces updated, and provide the city a contact list. HOA feedback to the city is desired, as well as communication to their members. Two-fold is getting information as to who's responsible, but also getting more informed about the community. It would be good if HOA became more of a partner because they cover such a large part of the population.</p>
<p><b>Q4 (33:00) Do you have any model HOAs?</b></p> <p><b>Q4a (42:20) Do you have a comparable community?</b></p>	<p>Summary: Evermore and Glendalough. Glendalough is big on emailing and communication out of necessity due to having significant common elements.</p> <p><i>Post script, several cities emailed; those replied affirmed similar problems but no definitive action/plans to address.</i></p>
<p><b>Q5 (46:00) What is the appetite for a city HOA liaison?</b></p> <p><b>Q5a (50:00) Is it the city administrator, working through the departments, who advocates change up through the city council?</b></p>	<p>Summary: City liaison is good, but likely someone would take on the role as a collateral duty or special project.</p>
<p><b>Q6 (51:00) Is there anything else you would use this report for?</b></p> <p><b>Q6a (57:30) Who do you envision reading the report? Where the report will be going?</b></p>	<p>Summary: This subject needs to be elevated to the position of an institutionalized process. If done correctly, it's better than an enforcement of maintenance perspective, but also as a communication tool. The attraction of being able to have those HOA contacts as a long-term communication strategy double-bills the project. The collaborative events can be used as the day to meet the city and see Public Works projects. This is beneficial as resources are being spent reaching out, and then HOA goes out and reaches half of the city. Any chance to expand communication avenues may serve multiple purposes. The idea is that HOAs serve as proxies, much like the district councils in St. Paul. Posters may be a good way to convey the report.</p>

## General Thoughts

- Generate more institutionalized methodology for communications
  - Relational method of cooperation does not work due to the number of HOAs, board members, and management companies, and their frequently of turnover
  - Formal, but not onerous; include feedback mechanisms of issues/information
  - Symptoms seen in the generational HOA problems (not by recent HOAs, but mature HOAs)
  - Need a long term view on communications
- Information gaps grow rapidly during HOA transfer from developer to residents.
- An FTE is unlikely (albeit necessary); someone would likely be dedicated as a special projects person
- Use of report, for a long term impact
  - Pull as an institutionalized program or event, not just a special project
  - Stress as a tool better than simple enforcement; can be used as a communications venue and integrate it into other community activities
  - Annual meeting or event is desired, such as a booth at Leprechaun Days with handouts/flyers
  - Expand to collaborative event, adding general public works information and adding other departments
  - Various ideas are OK, and not limited
  - Expand communication avenues; for example, MPCA permitting has an education requirement that this general topic can overlay with.

3. **Gene Sullivan (representing HOA management company perspectives, as well as their professional associations and residents)**

Interviewer: Christine Weber Carle and David Ratte

Interviewee: Gene Sullivan, President New Concepts Association Management and President Minnesota Chapter Community Associations Institute (CAI)

Date: June 25, 2015

Overall Summary:

- While there **are not** a lot of promising practices out there regarding communication and collaboration between cities and homeowners associations and common interest community residents, there **are** fundamental actions that can address baseline issues...essentially blocking and tackling in football...such as educating the residents and HOAs in order to improve communications and promote self-governance.
- HOA issues should not be viewed as problems; common interest communities are serving to unburden communities as resources become scarcer. Take the perspective of it's the city's mission, and in their best interest, to facilitate communications as well as take physical action to make HOAs successful.
- Celebrate the HOA and treat them like they're a city within a city; with a greater emphasis to ensuring HOA success, not just resident compliance. The point is if you do xyz things, it will also have a favorable impact on trees and ponds.
- Lastly, consider reframing the topic from a problem statement to an opportunity statement, given the available resources, and present how city/HOA teams can work it.

Question	Response
<b><i>Q1 (0:00) What are promising practices from other communities for creating good working relationships and improving communications between city officials and their HOAs?</i></b>	Summary: The interviewee identified that the communication and collaboration issue is one that has not been fully nor universally addressed by communities in Minnesota. Education of the HOA residents is a key component to not only ensuring that they are taking on their responsibilities but that they understand the impact that they can have within their association. Identified were two leading communities that have started to address the communication gap by engaging with residents.
<b><i>Q2 (29:30) Which community in your opinion is a model city with respect to government to HOA interface / communications / relationships?</i></b>	Summary: While there isn't a specific city that is communicating well with its HOA population, there are cities who have promising communication practices with their residents. Burnsville and Bloomington are two examples brought to light during the interview. Both communities are more established and are not growing at the same rate as Rosemount. Communications such as community gatherings and educational opportunities are all a part of these promising communications.
<b><i>Q3 (37:15) How can one measure progress in this domain (of governmental collaboration and communication with HOAs)?</i></b>	Summary: The biggest message from the interviewee was that the education of the residents is key to successful governance of their obligations. The more the city can help with educating the HOA residents about their responsibilities, the better off they will be in managing issues.

4. **Todd Remely (representing HOA president and resident perspective, as well as a comparable community)**

Interviewer: David Ratte

Interviewee: Todd Remely, President, Liberty on the Lake, Master Homeowner’s Association, Stillwater, MN

Date: July 1, 2015

Overall Summary:

- While communication between the city and HOA community varies greatly depending upon topic, and can range from non-existent to robust, it is mostly centered on establishing relationships and then sustaining those interactions.
  - The city must be viewed by the HOA as individual people representing the city, as opposed to being viewed as an entire entity.
  - Personal relationships, to include returned phone calls and emails, and attendance at each other’s meetings are how you measure true progress in this domain.
- HOAs are most effective when they are run like a small corporation, functioning as a self-contained entity. It remains in everyone’s best interest to make the community a desirable place to live in, which positively affects citizens’ attitudes and their own involvement within the community. Win-wins must be strived for.
- Typical communications between HOAs and residents is via email, but there is room for improvement in using web sites and establishing special programs for new residents, similar to welcome wagon formats. Similarly between the city and HOAs, with personal interactions most effective, but acceptable via email and web sites (especially when applying to scale). An uninvolved HOA complicates all matters.
- HOA communities must be viewed by the city as more than just revenue generators.

Question	Response
<p><b><i>Q1 What is your interaction with the City of Stillwater, and with whom? How do you communicate with them and how often? What are the typical topics?</i></b></p> <p><b><i>Q1a Flip question: Who does the city interact with?</i></b></p>	<p>Summary: Interactions are situation dependent, but constructive relationships can flow from those interactions. Viewing city workers and officials as individuals is more productive than viewing the city as a complete entity. When the HOA functions as a self-contained entity, run like a small corporation, the HOA is more able to get things done. It is in everyone’s interest to make the community a desirable place to live in, which positively affects citizens’ attitudes and their own involvement within the community.</p>
<p><b><i>Q2 How do you communicate with your HOA’s residents, both new and old?</i></b></p>	<p>Summary: Forms of communication from the HOA to the residents include email, newsletters, and a robust website. Typical communication from city workers or officials to the HOA occurs via personal phone calls to HOA president or HOA property manager.</p>
<p><b><i>Q3 What are your expectations for the city, from the</i></b></p>	<p>Summary: Having strong HOAs is important, while fostering good relationships between the city and HOAs. Exemplar city officials</p>

<p><b><i>perspective of being a part of an HOA?</i></b></p> <p><b><i>Q3a But how do you export that to scale when there are 38 HOAs?</i></b></p>	<p>go out of their way to check in with HOAs, and update them with information, as well as attend board meetings.</p>
<p><b><i>Q4 When you work with the city, what challenges or opportunities do you see? What pet peeves in collaborating with the city?</i></b></p>	<p>Summary: Uninvolved HOAs complicate the city’s efforts to maintain the city’s resources. The challenge remains in communicating issues to the individual resident level.</p>
<p><b><i>Q5 What ideas do you have for creating good working relationships and improving communications between city officials and HOAs? How would you measure progress in this area?</i></b></p>	<p>Summary: Good working relationships at all level is key to a healthy HOA community. HOA knowledge of city functions and officials/workers is important. Striving for win-wins is what’s best for both the city and the HOA community. The city has to view HOA communities as more than revenue generators. True progress involves an active relationship between city officials/workers and HOAs, such as regular communications by phone and email, and attending each other’s meetings.</p>

5. Skip Nienhaus (representing a contrasting community's perspective)

Interviewers: Christine Weber Carle and David Ratte

Interviewee: Skip Nienhaus, Economic Development Coordinator, Burnsville, MN

Date: July 22, 2015

Overall Summary: The City of Burnsville is an established community with approximately 97% of its land developed. While the City does not actively engage its HOA residents specifically, there are many ways it connects and communicates with residents.

- The City has divided its community into East and West and assigned a police sergeant to each of these divisions, with the purpose of connecting with the residents.
- The prominence of social media has been harnessed to assist with communication to all residents on upcoming events and other information that impacts its residents.
- The City’s proactive approach to monitoring code compliance has proven to be of benefit. The residents are often more informed about the city’s responsibilities as well as their own by this proactive connection between the city staff and residents.

Question	Response
<p><b>Q1 What is your interaction with HOAs, and with whom? How do you communicate with them and how often? What are the typical topics?</b></p>	<p>Summary: The City of Burnsville engages with all residents the same way, and does not seek out their HOA populations any differently. Engagement with the residents includes a number of different avenues including block parties and through the block captain program. The City does not keep close watch on HOA specific requirements for each division. There isn’t a large number of issues between the City and their HOA population.</p>
<p><b>Q2 How do you communicate with your HOA’s residents, both new and old?</b></p>	<p>Summary: Again, the City does not engage its HOA population any differently. The City does maximize the opportunity to engage with all residents through work done by the community services network. Two full time staff are dedicated to communication and connection. One of the biggest ways in which the city connects with its residents is through social media. The city recently established a targeted effort to have fire hydrants, especially private (business or residential) hydrants tested and brought up to code. The city supported the notification effort with a marketing campaign in the newspaper and on Facebook/Twitter. A process was developed that involved the city spot checking and reporting back to the owner of record of deficiencies. Most complied, some even asked the city to perform the work and bill them. Many didn’t even think about it at the time. [This is a parallel to trees and storm ponds in Rosemount]</p>
<p><b>Q3 What are your expectations for the HOAs, from the perspective of being a part of your community?</b></p>	<p>Summary: The City of Burnsville is an established community that is approximately 97% developed. For this reason the city does not experience their HOAs in the same way as a growing city like Rosemount. However, some time ago the city decided to become more proactive in the monitoring of code compliance and other</p>

	<p>community or resident responsibilities. This has been successful in connecting with residents to ensure they understand their responsibilities and what the city's responsibilities are as well.</p>
<p><b><i>Q4 When you work with the HOAs, what challenges or opportunities do you see? What pet peeves in collaborating with the HOA?</i></b></p>	<p>Summary: Not Addressed.</p>
<p><b><i>Q5 What ideas do you have for creating good working relationships and improving communications between city officials and HOAs? How would you measure progress in this area?</i></b></p>	<p>Summary: Cities should maximize their opportunities to connect with the communities through their established events such as national night out and others. Additionally connections between not only the residents and the city, but also chamber of commerce, school districts and others can improve communications on what is happening within the community.</p>

## Appendix B: Academic Literature Review

**1. Source: Anderson, N. B. (2011). No relief: Tax prices and property tax burdens. *Regional Science and Urban Economics*, 41(6), 537-549. doi:10.1016/j.regsciurbeco.2011.03.014**

### **Key findings:**

The paper analyses tax price elasticity based on a 2001 change to Minnesota law that changed the ratio of commercial to residential tax payments. The state, some would say, stole commercial tax revenues leaving the balance to residential tax payers to pay. This allows for the opportunity to run regression analyses. This opportunity is new because prior work had looked at causal relationships between tax rates and expenditures, not tax rates and revenues. The effect uncovered is that as taxes go up, revenues go down, crimping capital capacities.

Net effect: This paper seems to not have a direct connection to Rosemount's issues. There could be a nexus between HOA payment rates and local property taxes, but it feels outside of the scope of our project at the outset.

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**2. Source: Callies, D. L. (2005). *Common interest communities: An introduction***

### **Key findings:**

Provides an introduction to "Covenants, Conditions, and Restrictions" (CC&Rs, not to be confused with CCR). Discusses how the parties that form the covenant relationships leave legally binding relationships that change parties as real estate transactions occur but do not change terms. Discusses Prof Michael Heller's "Common Interest Developments at the Crossroads of Legal Theory"; sees it as "the classic example of a successful liberal commons. (p. 326)"

Also references Susan French's "Making Common Interest Communities Work: The Next Step", which discusses how while CICs provide value to homeowners, as their capacity grows so too does the expectations of the municipality that the CIC resides in. In other words, as the CIC/HOAs become more able to provide services to their residents, the cities that host them expect more (or provide less). French recommends state regulation changes so that these disputes use ADA instead of clogging up courts.

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**3. Source: Chen, C. -, & Webster, C. (2006). *Privatizing the governance and management of existing urban neighborhoods*.**

### **Key findings:**

Using the British sections of Taiwan as a starting point, the authors make several assertions about the overall concept of privatizing public spaces, or at least exploring privatization concepts. First, they make a "tragedy of the commons" argument that says that the ability to provide services and infrastructure to the public will be strained and degraded if too many people try to use them. Second, "enclosure of congestible resources not only helps limit usage but also creates an incentive to discover resource-preserving and enhancing solutions..." (p. 99). The authors make this point within the context

of attracting investment: if investment in infrastructure is not protected, there will be little reason to invest in the first place. This concept is somewhat novel in an American context. Lastly, the authors see HOAs as net additions in the realm of funded infrastructure and service delivery.

An interesting paragraph: "The right to exclude is also the right to include and the power to enhance local public goods is also the power to be wise, prudent and generous in decisions about who uses them. Home owner association governance can restore dignity and responsibility to neighborhood communities and introduce new possibilities for enlightened urban ethics."

The article seems to have abandoned the idea that cities can be useful, which doesn't really help this project. But it does enlighten us to the perspective that likely helped create the HOA in the first place. It strongly seems to encourage the privatization of public space.

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**4. Source: Cheung, R., & Meltzer, R. (2013). Homeowners associations and the demand for local land use regulation. *Journal of Regional Science*, 53(3), 511-534. doi:10.1111/j.1467-9787.2012.00783.x**

**Key findings:**

Uses OLS method to determine that HOAs are associated with a greater tendency to have development rules associated with HOAs, positively associated with a propensity for regulation, and more likely to use incentives rather than mandates. Contains useful sections that chart the progression of HOAs as a scheme of private government that provides services that the public sector is unable or unwilling to provide, and that HOAs exist, in part, to preserve and enhance property values. The authors advise that "[t]he empirical literature on the association between HOAs and local land use regimes is thin to nonexistent" (p. 514).

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**5. Source: Franzese, P. A. (2005). Privatization and its discontents: Common interest communities and the rise of government for "the nice". *Urban Lawyer*, 37(3), 335-357.**

**Key findings:**

The tone of this piece is somewhat critical and provides a sociological viewpoint of HOAs in general. The focus of the article is the relationship between HOAs/common interest communities and their residents. However, it does provide some examples of state intervention and reforms in order to minimize litigation between residents and HOAs that provides a glimpse into some of the core issues. "For example, in 1997, the State of Nevada created the office of the Ombudsman for Owners in Common Interest Communities. The duties of this office include providing assistance in the processing of claims submitted for arbitration and informing homeowners in associations of their rights and duties. In 1999, the state legislature saw fit to expand the duties of this office to include compilation and maintenance of a central registry for homeowners associations." (p. 348) California has also introduced state legislation that includes the establishment of a state agency to oversee all homeowners associations in the state to respond to the volume of cases involving these communities.

Abstract (keying in on last line): The article focuses on the issues related to privatization and its discontents. Much more empirical attention must be given to the phenomenon of "privatization" as

reflected in privatized modes of governance. Common interest communities routinely rely on an extensive declaration of covenants, conditions and restrictions to privately control land use. The empirical work that has been done in this setting reveals that a significant lure of common interest communities is found in the desire to live in a "nice environment." Sadly, in an array of instances, government for the nice has produced governance by the not-so-nice, as the "nice police," or zealous homeowners associations, do their work, enforcing the given scheme of regimentation to preserve and protect the development's conceptualization of "niceness" and its rewards. For that matter, the interior of one's residence should be well, nice. Interior design restrictions have been imposed, ordaining the contours of appropriate style and design. The absence of meaningful checks and balances on homeowners association authority is a portent for abuse. The problem is that good governance, whether in the public or private sector, depends on the initiative and leadership of good people.

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**6. Source: French, S. F. (2005). Making common interest communities work: The next step. *Urban Lawyer*, 37(3), 359-369.**

**Key findings:**

Overall, this article provides a wealth of background in HOAs and how they relate to municipal services. The solution to issues that arise between HOAs and its members, and HOAs and other governing structure, is that state support is needed for common interest community governance. The article articulates the similarities and differences of community associations and cities and corporations. (p. 362-4) It pointed out that community association leaders often do not treat their work as a career, and maybe isn't paid, so many times they have a lack of training.

Page 364 also goes into detail about the rule complexities of HOAs. "One of the major problems facing associations is the difficulty in figuring out what the rules are and how to comply with them. In every state, the basic law governing an association provides for enforcement of the association's governing documents, at least to the extent they are not inconsistent with the state's statutory law and its common law of covenants. Additional rules come from corporation statutes and the state's statutes on common interest communities, which may cover all types or be limited to condominiums. Simply pulling together all the applicable sources of rules can be a daunting task. Understanding them and resolving conflicting rules is more difficult, and determining what the default rules are, in the absence of express rules, can be even harder. States could provide an enormous service by pulling all this information together and setting it out in language a layperson could readily understand."

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**7. Source: McCabe, B. C. (2005). The rules are different here an institutional comparison of cities and homeowners associations. *Administration and Society*, 37(4), 404-425.**

**Key findings:**

"Because the courts view HOAs as business enterprises rather than as governments, HOAs governing provisions are not required to conform to basic democratic principles for participation." (p. 404) While this statement is more reflective on what HOAs can compel its residents to do, it is also useful when viewing HOAs through a governmental agency compliance lens. The theme of "HOAs have been called 'private governments'" (p. 405) arises again. "HOAs, on the other hand, are mostly

established under state law as private, nonprofit corporations.” (p. 407). The declaration of CC&Rs are the governing documents. Separately, there are bylaws which may not be recorded in the declaration, and they reflect “the HOA’s internal governance including voting rights and elections.” (p. 407)

Working against a city, “Once established, neither the state nor its cities can extinguish an HOA, modify its jurisdiction, or demand that it perform tasks not assigned to it in its organizing documents.” As such, it is important that we view some CC&R examples that should be on file with the county. HOA bylaw documents may not be sufficient.

The power that binds a HOA resident: “By taking title to property in the associations jurisdictions, the property owner becomes a member of the association and must abide by the property restrictions laid out in the CC&Rs. These restrictions run with the land and bind all current and future owners of the property.” (p. 408)

The challenge and HOA solution: “Like cities, HOAs are faced with problems of collective ownership of common property and of monitoring and enforcing regulations. HOAs, however, can impose heavy penalties in carrying out these functions. The HOA holds title to the common areas and is responsible for their maintenance. Assessments against individual homeowners pay for maintaining the common property and other actions.”(p. 409) In addition, and the parallel: “The association is also responsible for monitoring and enforcing the CC&Rs and is frequently empowered to impose penalties (such as fines or bans on the use of the association’s common areas, including its streets) on rule breakers. City land-use regulations (such as zoning regulations) perform a similar function in regulating property use but without the level of detail that governs individual property choices in HOAs.” (p. 409)

Of note, complicit in the development of CC&Rs with the city government are property developers, “whose goal is to sell, but not necessarily to live in, the community he or she has created. For that reason, these rules may do more to facilitate property sales and maintenance than community government.” (p. 409) The government is equally motivated to collect taxes while sharing common area maintenance costs with future residents, than absorb those costs themselves.

The social dilemma part of compelling compliance resides with the notion of collective decision making “and one of the first considerations is defining *we* in the rules governing participation.” (p. 411)

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**8. Source: McCabe, B. C. (2011). Homeowners associations as private governments: What we know, what we don't know, and why it matters. *Public Administration Review*, 71(4), 535-542.**

**Key findings:**

Far from being just unassuming caretakers of private property, “Homeowners associations (HOAs) are private governments that are reshaping urban governance and service delivery.”(p. 535) As such, in order to just sustain the traditional level of service delivery to the greater community, local governments are facing complex public affairs challenges to what used to be simple legal and enforcement issues. This section invokes the notion of “The Cynefin framework” to debate as to whether this subject is within the complex, complicated, chaotic, obvious domain.

What HOAs are, and are not: “Homeowners associations have been called private governments because they do many things that governments do. HOAs hold elections, provide services, tax residents, and regulate behavior within their jurisdictions, but as legal entities, they are not governments.” (p. 535)

A city must demonstrate foresight when outlining expectations from HOAs, as the HOA and homeowner responsibilities / requirements, as delineated through the CC&Rs filings, are binding actions on HOA members in perpetuity. This is especially important for HOA rulesets that absorb responsibilities for common areas that previously were under the city government’s domain. “As organizations, HOAs are created in local governments’ real property records long before the homes are built. When a housing development’s design includes common areas, the developer restricts the land’s use and establishes a homeowners association to uphold the restrictions and maintain the commons in perpetuity. These tasks are accomplished through the Declaration of Covenants, Conditions and Restrictions (CC&Rs) filed in the local property records. The specific restrictions of CC&Rs vary, but they always bind current and future owners and require their compliance.”(p. 536) This is especially important because “The invention of HOAs has enabled local governments to shift infrastructure costs from the general public to developers....” (p. 537) Effectively, this shift of financial and executional burden taxes local government’s ability to influence favorable outcomes.

Further, in execution of its mission, “HOAs lack governments’ coercive power and rely on the courts to compel compliance.” (p. 536) Compounding this issue, “Local governments are neither legally liable for private infrastructure and services nor responsible for maintaining them.”(p. 537) These two elements further speak to why the most amenable method to foster a healthy community is via a public affairs approach over a legalistic approach. Essentially, when there is disagreeable action or the presence of inaction, neither body has the most efficient and effective means at its disposal to compel resident compliance to community standards for those living under an HOA.

Strengthening the HOAs position, “HOAs would deliver a disproportionately strong political punch if they became involved in local government policy decisions” (p. 537) and HOAs are awakening to paying for tax-funded services, where “The Community Association Institute calls this ‘unjust double taxation.’”(p. 538) Plus, while city ordinances may dictate language within CC&Rs, such as the care of open spaces and common areas, “There is no mention, however, of a continued role for local government in overseeing these efforts.”(p. 538)

This leaves local government with the public affairs dilemma: “Public managers may shed government responsibility for private community infrastructure, or they may assume the lead in the governance of networks of service providers.”(p. 538) This element is at the crux of our argument to advocate for an FTE to administer HOA issues.

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**9. Source: McCabe, B. C., & Tao, J. (2006). Private governments and private services: Homeowners associations in the city and behind the gate. *Review of Policy Research*,23(6), 1143-1157. doi:10.1111/j.1541-1338.2006.00257.x**

**Key findings:**

This document surveyed Homeowners Associations and can possibly serve as the basis for some of the questions we may also want to ask HOAs or government officials. Example, “Which of the following services related to streets / related to recreation / related to security /other services does you

community provide, or pay contractors to provide, through dues or special assessments?” (p. 1153 – 1154)

“Cities’ adoptions of alternative modes of service delivery (i.e., options other than their direct provision and production of goods and services) have been attributed to limited local revenues combined with increased programmatic responsibilities and heightened service standards.” (p. 1146) There is also a discussion of public and private goods.

Rosemount HOAs involvement in maintaining the commons is not unique, in that this is the more often provided service from the survey (97% for tree or plant trimming). (p. 1147) However, “HOAs provision of infrastructure was relatively rare.” (storm drainage maintenance 61%) (p. 1147) Compounding this discussion is the revisiting of “double taxation” from other McCabe readings.

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**10. Source: Meltzer, R., & Cheung, R. (2014). How are homeowners associations capitalized into property values? *Regional Science and Urban Economics*, 46(1), 93-102. doi:10.1016/j.regsciurbeco.2014.03.005**

**Key findings:**

In effect, what the local governments are doing: “Homeowners associations (HOAs) are institutions increasingly used by municipalities to offload the responsibility of providing local public services onto housing developers.”(p. 95) This is particularly true during times of governmental fiscal stress. I also add that this “offloading” places local governments in a lesser bargaining position when it comes to compelling residents to comply with HOA regulations, vs. city ordinances. As HOA membership grows within a community, a new normal towards local governance ensues, potentially enabling a better community, as well as potentially hindering community esthetics. “Theoretically, these associations are formed in response to some underprovision or lack of heterogeneity in public services and/or regulation.”(p. 94)

“Adding yet another layer is the regulatory nature of HOAs. HOAs do not possess the comprehensive authority of a general-purpose government, but they do participate in zoning-like activities that restrict the use and physical appearance of their member properties.” (p. 94)

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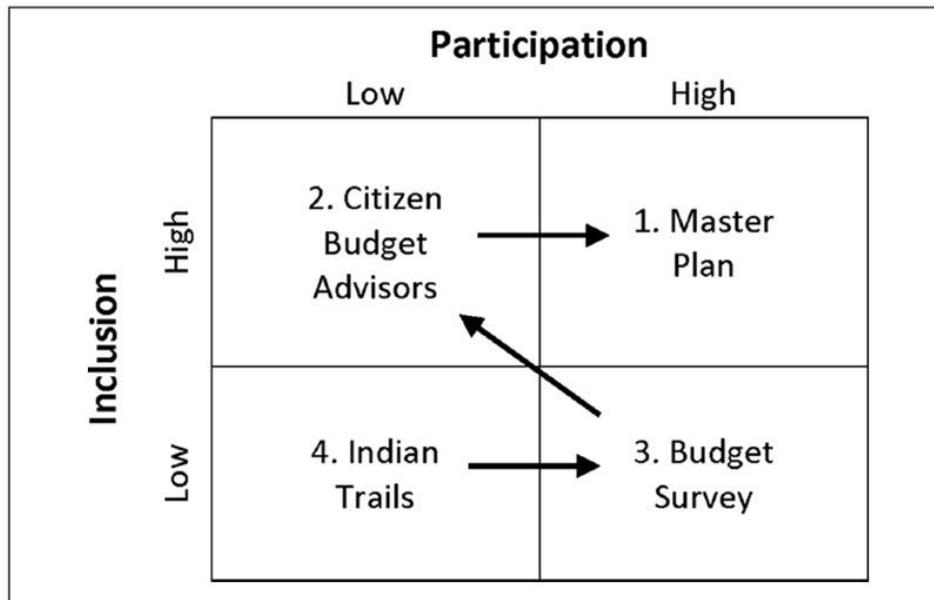
**11. Source: Quick, K., & Feldman, M. (2011). Distinguishing participation and inclusion. *Journal of Planning Education and Research*, 31(3), 272-290.**

**Key findings:**

This article emphasizes the independent nature of participation and inclusion in public affairs, and how each factor must be emphasized during public engagement. “Inclusion continuously creates a community involved in defining and addressing public issues; participation emphasizes public input on the content of programs and policies.” (p. 272) By focusing upon the practices of organization public engagement, community capacity for engagement and consequences can be better managed. In particular is the premise “that engagement practices are not merely techniques to be acquired in order to organize meetings effectively, but highly consequential choices that shape the inherently political

process of planning and policy making.” (p. 273) From that flows the question, what’s in it for the public, other than the enforcement of city rules? The public engagement choice can be either adversarial or potentially collaborative. The latter is clearly the goal, and ways must be sought to support and enhance collaboration.

One such collaborative way “reconceptualizes members of the public as partners rather than as customers of government.” (p. 273). This is consistent with the elements found during key informant interviews, with a conclusion that cities and common interest communities and their HOAs must coalesce into “co-learners’ who ‘co-evolve,’” and “as long as people are engaged in practices community is being created.” (p. 273) Research shows that “inclusion and participation are two different dimensions of public engagement.” (p. 274) The referenced article emphasizes there must be a shift to high participation and high inclusion before a community is fully satisfied, as shown by the article’s Figure 2 example from pg. 282 below. The article concludes that their “research indicates that it is a pattern of practices and how they are enacted, rather than discrete methods or techniques, that make a process inclusive.” (p. 286) This article can be further referred to for key features of inclusive practices, and how to generate a community of participants.



12. Source: Bryson, J.M., Quick, K.S., Schively Slotterback, C., & Crosby, B.C. (2012) *Designing Public Participation Processes - Theory to Practice. Public Administration Review, 1-12.*

**Key findings:**

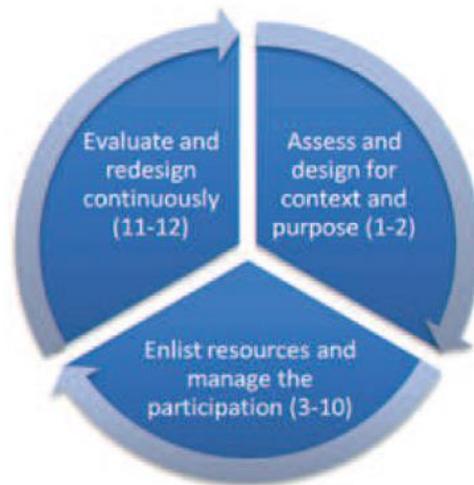
Focus of the article: “The article takes an evidence-based and design science approach, suggesting that effective public participation processes are grounded in analyzing the context closely, identifying the purposes of the participation effort, and iteratively designing and redesigning the process accordingly.” (p. 1) There is great promise in this approach being used to help solve Rosemount and comparable communities HOA challenges, by treating it as a public participation opportunity, especially when “they do not have a good understanding of how to design participation processes to achieve desirable outcomes.” (p. 1) Beyond simple better or best practices, this article outlines “insights from

the evidence-based practice movement and from the developing design science literature.” (p. 1) Most striking is the 12-step public participation design guidelines, and its association cycle of design and redesign, as presented in Table 1 and Figure 1 from pg. 2 of the article as shown below. Of note, the process is iterative.

**Table 1** Design Guidelines for Public Participation

Assess and design for context and purpose
<ol style="list-style-type: none"> <li>1. Assess and fit the design to the context and the problem</li> <li>2. Identify purposes and design to achieve them</li> </ol>
Enlist resources and manage the participation
<ol style="list-style-type: none"> <li>3. Analyze and appropriately involve stakeholders</li> <li>4. Work with stakeholders to establish the legitimacy of the process</li> <li>5. Foster effective leadership</li> <li>6. Seek resources for and through participation</li> <li>7. Create appropriate rules and structures to guide the process</li> <li>8. Use inclusive processes to engage diversity productively</li> <li>9. Manage power dynamics</li> <li>10. Use technologies of various kinds to achieve participation purposes</li> </ol>
Evaluate and redesign continuously
<ol style="list-style-type: none"> <li>11. Develop and use evaluation measures</li> <li>12. Design and redesign</li> </ol>

Note: These are interrelated, iterative tasks, not a step-by-step template.



**Figure 1** The Cycle of Public Participation Process Design and Redesign (Numbers indicate the corresponding design guidelines.)

The article goes on to identify various purposes of public participation, to include three that specifically address the City of Rosemount’s stated problem/opportunity statement, such as 1) Embodying the ideals of democratic participation and inclusion, 2) Informing the public, and 3) Enhancing understanding of public problems, and explore and generate potential solutions. The article should be reviewed by city officials in detail to provide them an understanding of researched methods

to improve on various communication and collaboration fronts, by using the Design Guidelines for Public Participation outlined above and in the article.

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**13. Source: Nelson, R. H. (2006). New community associations for established neighborhoods. *Review of Policy Research*, 23(6), 1123-1141.**

**Key findings:**

Community associations can be characterized as a cross between a corporation and a local government by which it is governed by a board and has the ability to levy taxes and enforce regulatory laws. (p. 1123) The author's focus is on establishing new associations within an already existing community structure and the impacts it could have on inner city areas impacted by age and other factors.

"If established neighborhoods could create their own community association, it would facilitate private regulation and private provision of common services within these neighborhoods. Given the past common failures of the public sector in these areas of responsibility, private assumption offers great promise." (p. 1140)

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**14. Source: Nelson, R. H. (2011). Homeowners associations in historical perspective. *Public Administration Review*, 71(4), 546-549.**

**Key findings:**

The focus of the article is on the history of HOAs and current trends. For example, HOAs are private entities and are allowed to restrict things that the public sector is not allowed to do, such as restrict the age of the residents or establish rules that govern what you are allowed to wear. "Other HOAs are organized informally to cater to the needs of specific groups, including neighborhood associations of largely gay persons, followers of specific religious beliefs, and subscribers to "green" ecological values." (p. 547)

Living in an HOA isn't necessarily a choice. There are some who would argue it is completely voluntary to live in an HOA and submit to the governing rules. In more recent times, that same philosophy is not as easily followed due to the abundance of HOAs and limited options for living outside of the private governed world. (p. 548)

"The field of public administration faces a large new task to understand the workings of the rapidly evolving system of local governance – now private and public – and setting the policies to guide it." (p. 549)

"The U.S. Census of Governments still collects essentially no information on HOAs, leaving a gaping hole in the public database of American government." (p. 546) Possible reasons this data isn't being gathered is the confusing nature of the legalities of each as well as the fact that they are seen as private businesses. (p. 546)

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**15. Source: Scheller, D. S. (2015). Neighborhood governments and their role in property values. *Urban Affairs Review*, 51(2), 290-309. doi:10.1177/1078087414542088.**

**Key findings:**

The focus of the research in this article is on property values as impacted by HOAs and Neighborhood Associations (NA) alike. The key findings from the empirical analysis are that HOAs have a greater impact on property values than the NAs (p. 304). Greater than the evidence that supports the HOA impact on property values, is the non effect of NAs on those same values. "This form of government is popular in central cities, and NA presidents do cite improvement in property values as a goal." (p. 305). "NAs can be a medium through which their board members improve social interaction among neighbors through block parties." (p. 305)

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**16. Source: International Association for Public Participation (2007); <http://iap2usa.org>.**

**Key findings:**

The International Association for Public Participation (IAP2) bills itself as follows: "The International Association for Public Participation (IAP2) promotes and seeks to improve the practice of public participation in relation to individuals, governments, institutions, and other entities that affect the public interest in nations throughout the world. IAP2 carries out this mission by serving the learning needs of its members, advocating for public participation, promoting results-oriented research, and providing technical assistance to improve public participation." IAP2 does this through conducting and collating a body of research, training professionals around the world, and ascribing to developed core values and a code of ethics for public participation practitioners.

The IAP2 Spectrum of Public Participation presented below is a fundamental principle of the organization and is at the root of our capstone group's recommendation to reframe government relationships with homeowners associations. That is, IAP2 has found that following this conviction is necessary to help various groups define the public's role in any public engagement process. Based upon the additional literature resident on the organization's website, our capstone group's assessment is that at the core of the City of Rosemount's effort should be public engagement and not simply resident compliance to various established rules and regulations. IAP2 asserts this is best done by adhering to the three pillars of Spectrum and the aforementioned Core Values and Code of Ethics.

# IAP2 Spectrum of Public Participation



	<b>Inform</b>	<b>Consult</b>	<b>Involve</b>	<b>Collaborate</b>	<b>Empower</b>
<b>Public participation goal</b>	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
<b>Promise to the public</b>	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
<b>Example techniques</b>	<ul style="list-style-type: none"> <li>▪ Fact sheets</li> <li>▪ Web sites</li> <li>▪ Open houses</li> </ul>	<ul style="list-style-type: none"> <li>▪ Public comment</li> <li>▪ Focus groups</li> <li>▪ Surveys</li> <li>▪ Public meetings</li> </ul>	<ul style="list-style-type: none"> <li>▪ Workshops</li> <li>▪ Deliberative polling</li> </ul>	<ul style="list-style-type: none"> <li>▪ Citizen advisory committees</li> <li>▪ Consensus-building</li> <li>▪ Participatory decision-making</li> </ul>	<ul style="list-style-type: none"> <li>▪ Citizen juries</li> <li>▪ Ballots</li> <li>▪ Delegated decision</li> </ul>

**Appendix C: General City of Rosemount Information**  
(Principal reference: City of Rosemount official website [www.ci.rosemount.mn.us](http://www.ci.rosemount.mn.us))

**City Structure**

In January 1971, the village and township of Rosemount merged. Rosemount became a statutory city in January 1975, with the basic form of government being a mayor, city council, city administrator, and city clerk.

**Mayor-City Council**

Rosemount is a weak mayor-council Plan A city, by far the most common plan in Minnesota. Under the weak mayor-council plan, administrative as well as legislative authority is the ultimate responsibility of the council unless the council has created an independent board, such as a utilities commission, to handle one or more specific functions. The mayor's powers in weak mayor-council communities are no greater than those of any other member of the council, with the exception of the mayor's role as presiding officer at council meetings and several other minor duties. No individual council member holds specific administrative powers. Many statutory Standard Plan and Plan A cities create a city administrator position by resolution or ordinance and specify the responsibilities of the position. City administrators are appointed because of their professional qualifications; this is not a political appointment.

**City Clerk**

The City Clerk maintains public records, including the official documents and actions of the Rosemount City Council and the ordinances of the City. The Clerk also supervises elections and has responsibilities in licensing, including applications for block parties. The Clerk is designated as the Responsible Authority for the City of Rosemount under the Minnesota Data Practices Act.

**Stakeholder Departments & Commissions**

**Administration**

Administration links all other departments and city employees with the City Council, is responsible for implementing City Council policies, for the administration of general or multi-departmental organizational activities, and for human resources.

- City Administrator
- Assistant City Administrator

**Community Development**

Community Development performs functions related to protective inspections, land use planning, development plan review, redevelopment, and economic development. The Department also administers land use controls and implementation of the Comprehensive Plan in a manner consistent with city policies. The Department also promotes quality development aimed at creating a diversified tax base and a variety of housing opportunities. It is responsible for the administration of State Building Code regulating development to assure well-planned developments that offer a high quality of life.

- Community Development Director
- Senior Planner
- Planner

**Public Works**

The Rosemount Public Works and Engineering departments are responsible for the design, construction, and maintenance of the City’s streets, water, sanitary sewer, and storm sewer systems. Public Works staff is also responsible for maintaining the parks, sidewalks, trails, and all city buildings and vehicles. The Public Works Department operates according to council-approved quality standards.

- Director of Public Works / City Engineer
- Public Works Supervisor
- Public Works Coordinator

**Planning Commission**

The Rosemount Planning Commission is an advisory board to the City Council that helps review plans and development within the City.

**2-1-4: Zoning Powers And Duties:**

A. Prepare Comprehensive Plan: It shall be the function and duty of the planning commission to prepare and update a comprehensive city plan for the physical, economic and social development of the city. The plan shall be submitted to the city council for adoption according to procedures set forth by the city council.

B. Prepare Zoning Ordinance: After the adoption of a land use plan for the municipality, the planning commission, for the purpose of carrying out the policies and goals of the land use plan, may, and upon instructions by the city council, shall prepare a proposed zoning ordinance and submit it to the governing body with its recommendations.

C. Development Review: The commission shall review and act upon all development proposals in the city according to the authority and procedures set forth in the zoning and subdivision regulations. The commission shall annually review the five (5) year capital improvement program and submit its recommendations to the city council. (Ord. XVII-1, 3-4-1971; amd. 1983 Code; Ord. VIII.5, 4-17-2001)

**Other Departments, outside the scope of this Capstone:**

**Finance**

**Fire Department**

**Parks and Recreation**

**Police Department**

**About Rosemount**

The City of Rosemount is 15 miles south of the Twin Cities metropolitan area. With land area of nearly 36 square miles, Rosemount residents enjoy the advantages of living in a community with both a

small town and large metropolitan city atmospheres. Unusual for a city of its size, Rosemount combines industry, agriculture, and agricultural research with a rapidly growing residential community providing an excellent environment in which to live and work.

The western part of Rosemount exhibits a dynamic, expanding residential community with an older, yet vital, commercial center at its heart. Housing options include single family homes, townhomes, condominiums, and affordable housing. Residential developments with hundreds of homes are currently under development, and this pattern of growth will continue for years to come. Rosemount is a close-knit community in touch with the urban environment. Rosemount is a community rich with resources: undeveloped land; easy access to Minneapolis, St. Paul, and other major markets; quality education; and friendly residents.

## **Appendix D: Community Engagement Promising Practices Between Homeowners Associations (HOAs) and the City of Rosemount**

Basis of solution set: A root need for community engagement tools focused on improving communication, collaboration, and cooperation between the City and HOAs/residents of common interest communities. This is not just a technical issue (such as updating a roster or conducting a Declaration of Covenant, Conditions and Restrictions/Planned Unit Development analysis), but rather an adaptive problem (of community engagement and moving public policy) to work cooperatively towards solutions to sustainability issues and needs.

Principle notion: The definition of ‘normative’ closely fits the Rosemount project, as we formulated observations and recommendations ranging from **technical-based** (update the HOA contact lists and post the rules) to the **ubiquitous** (educating the citizenry) to the **adaptive** (view the trees and ponds as symptoms of a growing community under 21<sup>st</sup> Century financial stress, struggling to engage, inform, and manage the community’s assets in an effective, shared, democratic manner). Aligning HOA rule sets as enumerated in Declarations during the PUD process is necessary, but not sufficient due to the dynamic nature of community development and the static nature of Declarations, and by extension, HOAs. Additionally, simply enumerating HOA standards is also not sufficient, as there are as many different HOA versions as there are individual Common Interest Communities (CICs) within the City of Rosemount's borders.

Our team explored the best option possible for Rosemount, given all things considered, and not just a single optimal decision. This included reframing the argument where the government views CIC issues not as problems, but rather as opportunities for community improvement, in that HOAs are actively serving to unburden city government from their traditional roles as resources become scarcer. By viewing HOAs as cities within a city (similar to how police and fire precincts serve as proxies in larger cities) and then enabling their success, perhaps this reframed look will incorporate win-win concepts that go beyond “resident compliance” as the sole measure of success. Ultimately, Rosemount city officials should take the perspective that it is the city’s mission, and in their best interest, to facilitate communication and cooperation, as well as collaborate to make HOAs successful. In fact, Rosemount will need to move from their notion of communication and collaboration to empowerment under the IAP2 Spectrum if this effort is to take hold. These alternatives are intended to facilitate that very shift, if the long-view is taken and efforts are consistently taken over time.

### **Incorporate HOAs into Overall Strategic Direction Planning**

- Include HOA community engagement as a key element of the overall comprehensive plan for 2040
- Generate institutionalized methodology for communications
  - Relational aspects are important, but cannot be the sole method due to the large number of HOAs and their various board members and management companies, and their frequency of turnover
    - Nonetheless, City leadership and management should be assigned to each HOAs as a point of contact for HOA presidents to communicate with
  - Formal process needed, but not onerous
  - Must communicate with both recent and mature HOA communities

- Improve City of Rosemount website with detailed information for HOAs
  - Include in this page a feedback mechanism, such as a common, frequently updated Q&A deck that has real-world examples recently encountered by city staff, along with resolution and points of contact
  - Include the comprehensive training package for developers, management companies, and HOA presidents
  - Provide example and assistance in HOAs setting up their own websites, with a welcome section, legal documents, and effectively a “welcome wagon” for new residents

#### **Invite HOA Community in City Marketing and Events**

- City provide (or contract for) a comprehensive training package for developers, HOA management companies, and presidents of HOAs
  - Ensures passing of information between developer-led HOAs and resident-led HOAs
  - Provide to developer upon approval of PUD, and before transition of HOA operations
  - Provide on recurring basis for new management companies and new HOA presidents
  - Archive the training online, for future access/reference
  - Develop “Welcome Aboard Packet” for new HOA community residents
- Institutionalize standalone annual City of Rosemount/HOA communities open house
  - Goal of being city and HOA operating more as partners in the betterment of the community, and to promote Rosemount as a livable community
  - Co-sponsored by Community Development and Public Works Departments
- Include HOA community information booth at various city events, such as Leprechaun Days and National Night Out/Night to Unite
  - Provide handouts and flyers, advertising meetings, upcoming events, website, etc.
  - Expand HOA information activity to other collaborative events, such as meetings where Minnesota Pollution Control Agency’s permitting and education requirement take place
- Under the umbrella of enabling HOA communities’ success, sponsor a twice-yearly (mid-spring, mid-fall) city-wide tree trimming and community cleanup day
  - Widely advertise these two days, serving as anchor points in Rosemount’s annual calendar
  - Provide Community Development and Public Works experts to help identify offending areas and actively assist HOA communities in common interest area maintenance
    - City work with HOA management companies and presidents to inspect HOA community on a rotating basis (say each HOA community once every three years, on a rotating basis throughout the year, akin to what the City of Burnsville does with infrastructure and code compliance checks)
  - Provide access to Public Work tools and equipment by developing a “tool shed” for equipment checkout
  - Partner with local tool and equipment rental companies to incentivize homeowner rental of gear on these designated days/weekends
  - Tie to community-wide annual waste management cleanup of recyclables, yard waste, and hazardous materials/electronics disposal days
  - Encourage innovative and catchy advertising, such as “adopt a sewer/tree/street/drainage pond/etc.”

### **Build Ongoing Relationships with HOAs**

- Dedicate or hire part time employee to liaise with HOAs
  - Technically speaking, serve as Common Interest Community ombudsman
    - Alternatively, could serve as head of “department of neighborhoods”
  - In lieu of new hiring, assign a community development planner and a Public Works employee with this duty
  - Additionally, serve as an arboretum and/or pollution control expert to liaise with HOA residents, assisting them in the maintenance of HOA community common and limited common elements
  - Develop a city employee with the skill set and capacity in house to manage city growth, to include liaison with HOAs
  - Incorporate a record-keeping system that houses all HOAs CC&R, PUD, and potentially association documents, so they are available for future reference
  - Standardize a HOA template, recommended for use by the city within Rosemount; amend a new concerns arise and require resolution via this method
  - As an example, Missouri City Texas has implemented a full-time HOA position. The following is personal electronic communication with Cory Stottlemeyer, Media Relations Specialist with the city that outlines the position:

*The City’s Communications Department launched a comprehensive HOA liaison program when, five years ago, current Communications Director Stacie Walker noticed a need within the city to establish a direct line of contact with citizens via their HOAs. The communications director began canvassing all annual and several monthly HOA meetings to build relationships with the City’s HOAs, and shortly thereafter other City Departments such as the Police Department, who had some already established relationship with various subdivisions; and Public Works were looped in to certain HOA meetings as necessary. Currently, Communications has a HOA liaison, (the City’s Community Relations Coordinator) who manages the City-wide HOA program and is in charge of addressing resident needs via this program. Managing the program through Communications allows the city to funnel information through a uniform process that produces consistent and precise messaging. This has allowed the City to make great strides with many residential neighborhoods and improved the speed and effectiveness of the City’s communications.*

*HOA Liaison is under communications; former Community Relations Coordinator took on the role of HOA Liaison several years ago and it has since relied within this role and in Communications.*

*HOA Liaison maintains open dialogue with both property managers and residents within the City to make sure that the HOA database information is up to date and accurate. The city also has a way to update information on their website.*

More information can be found at <http://www.missouricitytx.gov/index.aspx?NID=66>.

# Appendix E: Community Engagement Opportunities Between Homeowner Association (HOAs) and the City of Rosemount Presentation Handout & Capstone Project Poster

Public Affairs Capstone  
Summer 2015  
Humphrey School of  
Public Affairs

## Community Engagement Opportunities Between Homeowner Associations (HOAs) and the City of Rosemount

Christine Carle, Anthony Kelly, David Ratte, Laura Ziegler

UNIVERSITY  
OF MINNESOTA  
Driven to Discover™

### Reframing Perspectives on HOAs

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### Public Participation Process

**Table 1** Design Guidelines for Public Participation

Assess and design for context and purpose

1. Assess and fit the design to the context and the problem
2. Identify purposes and design to achieve them

Enlist resources and manage the participation

3. Analyze and appropriately involve stakeholders
4. Work with stakeholders to establish the legitimacy of the process
5. Foster effective leadership
6. Seek resources for and through participation
7. Create appropriate rules and structures to guide the process
8. Use inclusive processes to engage diversity productively
9. Manage power dynamics
10. Use technologies of various kinds to achieve participation purposes

Evaluate and redesign continuously

11. Develop and use evaluation measures
12. Design and redesign

Note: These are interrelated, iterative tasks, not a step-by-step template.

**Figure 1** The Cycle of Public Participation Process Design and Redesign (Numbers indicate the corresponding design guidelines.)

Bryson, Quick, Slotterback & Crosby's "Designing Public Participation Process" PAR 2012

### Actions

**Options for**  
 MINNESOTA

- ✿ **Incorporate HOAs into Overall Strategic Direction Planning**
  - Include HOA community engagement as key element of overall comprehensive strategic plan for 2040
  - Generate institutionalized methodology for communications
  - Improve City of Rosemount website to include detailed information for HOAs
- ✿ **Invite HOA Community into City Marketing & Events**
  - Provide a comprehensive training package for developers, HOA management companies, and HOA presidents
  - Institutionalize standalone annual City of Rosemount & HOA community open house or annual meeting
  - Include information for HOAs at various city events, such as Leprechaun Days and National Night Out
  - Sponsor a biannual city-wide tree trimming and community clean up day
- ✿ **Build Ongoing Relationships with HOAs**
  - Dedicate or hire part-time employee as a HOA liaison