

**Grace Point Strata Meeting With the CRD, Parks, SSIPARC, and LCC
(February 18, 2025, at 11:00am)**

Participants:

Gary Holman, CRD Director for Salt Spring Island
Dan Ovington, SSIPARC Manager, CRD
Earl Rook, LCC
Geoffrey Oestreicher, President, Grace Point Strata Council
Susan Close, Vice President, Grace Point Strata Council
Robert Jones, Grace Point Strata Council
Gillean Proctor, Grace Point Strata Council
Tom Toynbee, Grace Point Strata
Jennifer Mycyk Oestreicher, Grace Point Strata

This meeting was initiated at the request of the Grace Point Strata Council.

Issues

We, the residents of Grace Point Strata representing twenty-one tax-paying households, are concerned that the situation and conditions on the boardwalk and path (these being the CRD-controlled Right of Way (ROW)), as well as the beach which is frequently accessed via the ROW, has deteriorated to the point where the deterioration is significantly affecting our financial investments, physical safety, and our right to enjoy and use our property.

This deterioration has come in two broad forms: the first is the physical deterioration of the condition of the boardwalk and ROW path along the ocean out to Grace Point—to a level that we believe is dangerous for the general public.

The second is the changing nature of population that uses the Right of Way (ROW) resulting in a rise in the number of complaint calls to the CRD bylaw office and the RCMP, as well as direct threats to the safety of Grace Point residents—these include abusive language, stalking, and rape threats.

We would also note that the Right of Way (ROW) is used by some individuals for access not only to the beach and to the point, but also to Grace Islet, which is meant to be off limits due to its importance to First Nations groups as a culturally significant space. Such violations have ranged from fires, camping, and free-roaming dogs among the First Nations' burial cairns on the islet to illegal logging.

First issue—physical deterioration of the path and boardwalk

The ROW agreement obligates the CRD to maintain the boardwalk and the path along the ocean in a safe condition. We would argue that this has not been done, and conditions have deteriorated

significantly. Also, the standard of what a safe condition means has evolved over time, while the level of maintenance carried out by the CRD has not kept pace. We believe this has resulted in a situation where the general public has been put in jeopardy in that the path is no longer safe for pedestrian traffic.

The Strata recently commissioned a geotechnical survey from Ryzuk Geotechnical. This survey, in part, assessed the condition of the seawall upon which a large portion of the CRD ROW path runs. This survey has been shared the SSIPARCs and the CRD. While the survey noted erosion in the mortar of the seawall as well as the presence of small sinkholes, it did not determine there was immediate danger. It did note, however, that the level of degradation could change rapidly.

“[T]here are aspects of the wall which appear to be degrading: several gaps in the wall base and along its base, as well as depressions and small sinkholes along the pathway above the wall backfill. The degradation of the seawall and its backfill may accelerate as more void spaces are opened up, especially when considering that future climate change is expected to cause the sea level to rise and more intense storms to occur. ... Delaying remediation of the seawall could result in the repair becoming more comprehensive, difficult, or possibly the need for complete reconstruction. (page 4)”

As we explained in our letter of January 6, 2025, intense storms and unusually high tides this year appear to have rapidly degraded the seawall. These opened at least two large sinkholes, extending across the path, measuring about a meter deep each and 1 to 1.5 feet wide. The void of these sinkholes extended through to the seawall and the backfill of the seawall was being washed away through these voids by the high tides and storm surges. In short, the seawall was being rapidly undermined. Additionally, a large pothole right on the cliff edge of the path appeared due to the collapse of the top edge of the seawall. This pothole/depression was about a metre wide.

Despite some patchwork repairs carried out by the CRD in mid-January, given such a rapid deterioration in the integrity of the sea wall, we feel it is not unreasonable to expect that portions of the structure will continue to collapse, quite possibly while some member of the public is walking on it. The CRD did not follow the repair recommendations outlined in the geotechnical report, instead electing to “plug” the sinkholes with concrete. This does not solve the issue of why the holes appeared (mortar erosion) and further, as the Ryzuk report clearly states, using a concrete plug will likely result in erosion, hour-glassing and migration.

In addition to the developments described above, the Strata remains concerned about the safety of the rest of the path. We note that the path beyond the beach to the point is, in places, barely eight inches wide, skirts a steep cliff with a sheer drop of up to five metres, and is on a significant angle both laterally and horizontally. There are no safety rails, barriers, or warnings in place, and wet weather conditions make it very slippery. By any reasonable safety standard, this path is very dangerous and its use in its present condition puts the public at risk. Given these developments, the Strata is concerned about the continued use of the path by the public, as we believe the underlying safety risk has increased to an unacceptable level. This may, potentially, expose the

Strata to liability risks, and definitely exposes the CRD to such risk as they have explicitly accepted liability under the terms of the ROW.

Second issue — Increase in inappropriate, disturbing, and dangerous behaviours

We would like to start this section with a recognition that the ROW and the beach have always been public spaces. Over the years, residents of Grace Point have been privileged to live at this location and to interact with the public using the ROW. In recent years, however, the type of visitor has changed. Whereas before it would be mainly tourists and long-time Salt Spring residents, the area is now frequently used as a gathering place for the rough housed who use the ROW and beach to hold loud, disruptive gatherings characterized by excessing drinking, drug use, shouting, dangerous open fires, and physical fighting, all accompanied by groups of loud and uncontrolled dogs. The area is also used as a location to dispose of garbage and even as an ad hoc latrine, complete with a roll of toilet paper on a stick. This new element has basically taken over the area, as other members of the public usually avoid the area. Not only does this disadvantage Grace Point residents, but it also has the effect of unfairly denying the beach to law-abiding Salt Spring residents and visitors.

There are three more points worth noting in this regard:

- These gatherings are not confined to the beach but frequently spill out over to the path which is part of the right of way (ROW) that the Strata granted to the CRD decades ago. It is therefore incumbent on CRD to affect some remediation measures as the ROW agreement confers an obligation on the CRD to manage the area so that the public's safety is not put in jeopardy. We would note again that the CRD has formal accepted legal liability for incidents that happen on the ROW, which means they could incur substantial costs should their inaction result in harm to members of the public.
- Three of our residential units are situated directly above the beach only a few feet from the path and so are seriously affected by the shouting, smoking, and fighting going on just below. This disruption has reached the point where their right to quiet enjoyment of their property is seriously affected.
- This deteriorating situation has also led to an unambiguous fall in property values of the three affected units, and at least one member of the Strata who is in the process of selling their unit is likely to incur a significant financial loss. Long-time real estate professionals operating on Salt Spring and involved in the sale of Grace Point properties are on record as saying that the situation on the beach—and possibly by implication the CRD's unwillingness to address it—is acting as a real impediment to the sale of the affected units, despite asking prices being substantially reduced from comparable units located outside the affected beach area.

Recommended Actions

Given the situation described above, and the threats posed by the current situation, we would strongly recommend the following actions:

1. The CRD should immediately shut down access to the path beyond the boardwalk until such time as the CRD can maintain and repair the path and the seawall. We would also strongly encourage the CRD not to open it again until they have installed proper steps and effective safety features including handrails and barriers along this dangerous path to provide safety and limit liability.

This could be done by **installing a secure gate across the path just before the beginning of the beach**. Grace Point Strata would be willing to foot the cost of such a structure although, given the terms of the ROW, the actual construction should be carried out by the CRD.

2. We note that the ROW agreement provides for public access to the point. However, it does not provide for public access from the ROW to the beach. And it is the existence of access from the path to the beach that is giving rise to all the security difficulties being experienced by Grace Point residents.

An alternative solution would be the installation of a fence above the high tide mark to prevent access to the beach from the path. This would be consistent with the ROW agreement and would also maintain access to the beach from sea, which is the norm in our province. However, such a fence would then provide adequate security for our residents. Again, the strata would be willing to finance this construction, although it should be carried out under the aegis of the CRD.

We are aware that the construction of a fence may be complicated by the area being archeologically sensitive. However, as the CRD's recent filling in of sink holes demonstrated, adherence to this sensitivity would be consistent with the drilling of one or two fence post holes—we feel there is now a clear precedent for this. Alternatively, we could explore a design where the fence hangs from posts drilled on strata property.

3. Another alternative remedial measure would be for the CRD to use its good offices to persuade the RCMP to adopt a no-tolerance policy towards drinking and other inappropriate activity on the beach and the ROW. It is likely that once such activity begins to be shut down immediately and consistently, that the location of such activity will shift to other more appropriate areas.

(We would note, in regard to the first two recommendations above, that instead of access to town via Grace Point beach, there is more than enough access for those living in the harbour through the HASSI dinghy dock or via the beach at Gasoline Alley—also known as

Propane Beach. Neither of these are residential areas and so do not pose the same conflict risks.)

4. It would also be helpful if the CRD were to officially announce that the beach and the path are officially open only from 6 am to 6 pm each day. Establishment and posting of clear and unambiguous time limits would make enforcement more efficient and easier to implement.
5. Should the erosion problem accelerate again, it might be appropriate to consider a riprap solution to preserve the coastline. It is our understanding that this is considered a possible solution for erosion control and would also serve to protect the area's archeological significance. Grace Point Strata would be willing to consider financing such an effort.

We believe all these measures, or a combination of some, would be effective in improving the current situation without imposing an undue financial burden on the CRD, which we understand is undergoing some budgetary challenges. We would, therefore, urge you to consider these as a matter of some priority. We would also note that should the CRD prefer to devolve responsibility in these areas to the Grace Point Strata by returning to us the ROW, we might be open to considering this—although that would require an in-depth consultation with our members.

Thank you for taking the time to meet with us and for treating our concerns with the seriousness they deserve.

The Grace Point Strata Council, on behalf of Grace Point Strata Members