

Chris ANDERSON Town Council Dist. 1

Dear Neighbor and Potential Employer,

On November 8th you have a choice to make between myself and Mr. Pascua for the District 1 Town Council seat. As you will see in future mailings there is a considerable gap between our respective education, business and professional experiences and ties to the community. But for the moment I want to ignore the resume differences between us and address the issue that is affecting you most directly, the Soscia Holdings debacle. I've written this somewhat lengthy letter to ensure that there is no question as to where I stand and what I will work towards as your representative on the Town Council.

I live on Quidnick Reservoir (no connection to the Quidnick Reservoir Co.), and in the late 1980's the owner of that dam tried to force the abutting landowners to accept a series of demands or else lose access to the reservoir (sound familiar?). And while we never experienced the environmental terrorism being inflicted on you, we were threatened with having our docks and boats removed if we did not comply with the owner's demands. When it became clear to the dam owner that the residents were prepared to fight, the owner backed down and we have lived in harmony ever since. But, because we settled our issues without court involvement, the legal rights of the two sides were never definitively explored. This experience was one of the reasons I became an attorney and why in 2001 I wrote an article for publication entitled "Riparian Rights in Rhode Island Reservoirs". Since the late 80's I've wanted to understand the legal rights dam owners and abutters have to artificial reservoirs.

Fast forward to late 2020 when Soscia Holding's mouthpiece, Doug Soscia's true colors began to appear and threats to your access to the pond were first made. I immediately thought of my similar experience and realized I could provide many of you with a way to defend yourselves via an explanation of the law of adverse possession. Not only had I studied the issue of inland water rights in Rhode Island, but I've also litigated several adverse possession cases during my 20 years as an attorney. This led me to write my first article which was posted to the JPCA Facebook page and emailed to its members. All of my articles can be found at AndersonDistrict1.com/articles.

On August 25, 2021 I wrote my second article entitled "The Problem and The (only) Solution". The only solution being taking the property by eminent domain. My position on this has NEVER changed. Eminent Domain is the only solution to the problem you currently face.

As part of that article I provided research into comparable sales of dams to provide a framework for estimating the value of Johnsons Pond and its dam. I am the only person to provide an analysis of the value of the pond and dam based on comparable sales data. I am the only person who has attempted an income approach to valuation. When my second article was posted, the President of the Johnson's Pond Civic Association (JPCA) wrote the following:

Local Attorney Chris Anderson has come out with Part 2 of his unsolicited opinion (Copy attached). For those of you who have not seen Part 1 I am also attaching that as well.

We as a community can't thank you enough Chris for writing this opinion and providing a Common-sense approach and explanation to the issues surrounding our Pond and Dam. Your voluntary time and effort does not go unnoticed.

*Marc Lemoi
President
Johnson's Pond Civic Association*

<Chris Anderson Opinion Johnson Pond 2021 Part 2.pdf>

<Chris Anderson Opinion Johnson Pond 2021 Part 1.pdf>

Of course, this praise was written before the JPCA became Mr. Pascua's private platform. All my articles have since been removed from the JPCA Facebook page and they have refused to post my recent pieces.

As will be seen in the upcoming weeks as I roll out my campaign, there are significant and clear differences between the candidates running for District 1. For now, I'd like to discuss our differences on two key areas concerning the battle against Soscia Holdings: The recently enacted legislation now being discussed in Federal Court; and the actions (or lack thereof) of the current Town Council to address the situation.

Rhode Island General Laws § 46-19.1-1 Act Relating to Waters and Navigation – Dam Permits Act (“The Legislation”)

On April 22, 2022, President Lemoi emailed me asking if I would write on behalf of “The Legislation” or testify in person at the Statehouse. I informed President Lemoi that I could not in good conscience support the bill and gave several reasons why:

- 1) D.E.M. already has the power it needs to take control of the dam via the Fresh Water Wetlands Act (which D.E.M. exercised twice in the past to end two similar stunts. See N.O.V. sent to Quidnick Reservoir Co., as recorded in the Land Evidence Records of the Town of Coventry in Book 409 at Page 169, and the precedent set at Pascoag Reservoir in 1998);
- 2) The Legislation will just end up in court causing a lengthy and unnecessary delay in resolving the matter;
- 3) There are all sorts of practical enforcement problems with the Legislation (for example, the way it is written you will never see a fine issued, and D.E.M has failed to enforce existing laws and regulations, and D.E.M. won't be able to stop seemingly reasonable requests to lower the pond);
- 4) “The Legislation” can't fix the issue you are facing. At best, you will have a partially full pond matching the levels outlined in the town lease, (lower than most people will want), and nothing else because,

“The Legislation” can’t:

- a. Stop Soscia Holdings from trying to deny access to the pond, which for some, will necessitate having to go to court to defend their rights;
- b. Stop Soscia Holdings from denying permission to install new docks or expand existing ones;
- c. Stop Soscia Holdings from halting weed control efforts;
- d. Stop Soscia Holdings from randomly lowering the pond to conduct “dam maintenance or inspections”;
- e. And... because of how “The Legislation” is written, you will never see a single enforceable fine against Soscia Holdings.

I mention this April 2022 correspondence because I don’t want people to think that I just recently decided to take advantage of the failed “Legislation” for political gain. My criticism of “The Legislation” is not new. I have been warning about the futility of this new law ever since it was proposed.

The biggest problem with “The Legislation” is that every other angle of attack was put on hold because of the promises that were advanced by the politicians. If the politicians needed their photo ops on Facebook Live fine, but why not get an appraisal? Why not move forward with Eminent Domain? Why not enforce the Lease Agreement? Why not push D.E.M. to enforce the Fresh Water Wetlands Act (for Soscia Holdings’ draining of the lake and their transgressions on Whitehead Lane)? I’ve been pushing for all of these things (emails can be provided). The Dam Permit Act was and continues to be a huge waste of time and a diversion from real solutions.

KEY DIFFERENCE BETWEEN Mr. Pascua and Mr. Anderson:

Mr. Pascua spent countless hours on pointless legislation, which even if enforced, can’t solve the problems.

Vs.

I knew from the beginning that “The Legislation” was a waste of time. How did I know this? Because I’m an attorney with 20 years of experience who read the proposed legislation and figured out what I would do if I was Soscia Holdings’ attorney.

The politicians got their photo ops and left you holding the bag. I’m not a politician. I have no desire for higher political office. I don’t need to play these games.

The Town Council’s Response

What bothers me the most about the Soscia Holdings situation, and part of the reason I am running for Town Council, is how the Town Council has handled this matter.

From Day 1 of this mess the Town Council has held the trump card of Eminent Domain. Clearly it would be irresponsible to play this card without knowing what it would cost to do so. However, it is equally irresponsible, and I would argue negligent, to fail to find out what it would cost to end all of this. This is why you need an appraisal (and I would argue more than one

appraisal is needed together with other professional opinions of value derived from other areas of expertise as this is what you will need to defend an opinion of value in court).

It is incomprehensible to me why the Town Council has refused to get an appraisal of the pond and dam. This is particularly shocking once you realize the Town is required by law to assess the fair market value for tax purposes. Rhode Island General Law § 44-5-12(a) states:

All real property subject to taxation ***shall*** be assessed at its full and fair cash value, as of December 31 in the year of the last update or revaluation, or at a uniform percentage thereof, not to exceed one hundred percent (100%), to be determined by the assessors in each town or city . . . (the section goes on to list exemptions that do not apply) (emphasis added).

Query: When the lease ends and taxes can be collected on the pond and dam, how much will the tax bill be? No one I have asked this question to in Town government can answer this question. Of course they can't, THEY HAVEN'T GOTTEN IT APPRAISED.

For over two years I have been asking people in Town government (two current council persons, solicitor, tax assessor and others) why no appraisal has been obtained. I've gotten three vague answers, none of which make any sense.

- 1) They are afraid of the number.

This makes no sense for obvious reasons. Fear of the unknown just demonstrates a lack of leadership.

- 2) The Town doesn't want to own the dam and the associated liability.

This reason almost makes sense, until you give it any amount of thought. Owning a dam comes with a significant degree of potential liability. The Johnsons Pond dam is rated as a high hazard dam, meaning there exists the possibility of loss of life down stream in the event of a dam failure. There is no question that should the dam fail, the down stream damages would be astronomical. But consider this scenario. Assume I, Chris Anderson own the dam, and... it fails, causing a \$100 million in damages. The Town Council says to itself "Phew, we dogged that one, thank goodness we didn't own that dam." That's as far as the Town Council's thinking goes but consider what happens next. The dam will never be rebuilt. It would be far too expensive and politically impossible to rebuild if someone downstream died or if the damages were too severe. Coventry would lose Johnsons Pond forever. This will result in a massive hit to the Town's tax base. Doesn't it make far more sense to be in control of your own destiny? If the Town, via a Dam Management District, owned the dam, it could ensure that regular inspections were done and maintenance and improvements were made to ensure failure was never an option.

- 3) The most recent excuse for not getting an appraisal is one of the worst examples of political bootstrapping I've ever seen. Very recently, the excuse for not getting an appraisal is that if we wait, and if the Federal lawsuit goes the Town's way, the value of the pond and dam will go lower than before.

This makes no sense for multiple reasons. First, all my research and discussion with experts leads to the conclusion that the pond and dam are virtually worthless. How much lower do you need it to go? Is anyone seriously suggesting that if the property were worth \$200k before and now it's worth \$100k that now the problem can be solved via eminent domain, but not before? (And those numbers are likely too high.) Second, this new excuse is based on pure speculation since no one in authority ever got an appraisal to make such a comparison (even though being required by law to do so.) This excuse assumes the pond and dam are actually worth something. They aren't. In reality, this is just an excuse that attempts to explain away their previous inaction.

By not getting an appraisal the Town failed to establish the strength of its bargaining power against Soscia Holdings. They never called Soscia Holdings' \$100 million bluff to the detriment of all of you. Further, the Town Council is playing a dangerous game with the tax valuations on one of the only areas in town that helps subsidize the taxes for the population as a whole. And finally, the Council has allowed your suffering to continue far longer than was necessary.

KEY DIFFERENCE BETWEEN Mr. Pascua and Mr. Anderson:

Mr. Pascua has repeatedly defended the actions of the Town Council, for example:

"I've been at this problem for 3 solid years . . . and in my time and effort on this, the council has never denied us any action that we asked for." Jon Pascua, Facebook, August 11, 2022. In response to criticism of the current Town Council.

"... this town council has never said no to helping the pond at all. They have done everything that they can in their power based on knowledge of this issue." Jon Pascua, Facebook, August 19, 2022.

and...

Mr. Pascua is endorsed by two members of the current Council.

As compared to myself . . .

I have been extremely critical of how the Council has handled this situation. I feel they have wasted years following the wrong path and the wrong advice without doing even minimal research on eminent domain. By failing to obtain an appraisal the Town has been in the dark as to its ability to quickly end this problem and has hobbled its bargaining power against Soscia Holdings. This failure is even more troubling once you realize the Town is required by law to establish the fair market value of the area for tax purposes. Further, the current Council does not seem to grasp the potential danger to the Town's tax base caused by its inaction. This is a ticking time bomb that will affect the entire Town.

Do you think the Town Council has handled this well?

If you think the Council has mishandled this situation and has failed to enforce its rights under the lease agreement, then I'd suggest voting for me and not the candidate endorsed by members of the Town Council.

These are the steps I laid out in my second article from August 2021.

Here's what needs to happen, step by step:

- 1) Town needs to obtain an appraisal from a well-respected commercial appraiser who has experience with unique property and who has testified before a court.*
- 2) Town needs to obtain a trial attorney with experience in eminent domain law and valuation arguments.*
- 3) Town needs to prepare the paperwork to establish a dam management district, so the costs associated with the Town taking Johnsons Pond are assessed to those who have access to the Pond.*
- 4) Town needs to prepare the paperwork needed to take the property by eminent domain.*
- 5) Town Council needs to take the above four steps and craft an intelligent, comprehensive plan of action and put it on the agenda for public comment.*
- 6) The people around Johnsons Pond need to turn out in force and demand action. Same people, probably through the Johnsons Pond Civic Association, should consider raising the funds to pay for items 1 and 2.*

You will notice that the name Soscia does not appear in any of the above 6 steps. That's because they are not needed to solve the problem.

The solution is entirely within your grasp. It just requires leadership and the will to act.

I wrote this over a year ago and this is what I will advocate for on the Town Council. This is and always has been my position and if anyone tries to tell you any different, they are lying to you.

I welcome the opportunity to discuss this issue and the other issues facing our town with you. My website and additional mailings will be rolling out in the next few weeks with more information about my background, education, experience, and positions. I can be reached at 401 415-0001 (texts can also be sent to that number). Please leave a message if I do not answer, I will return your call. This time of year I can usually be found working at Coventry Pines Golf Course and would be happy to meet you there, or at my office (321 S. Main St.), or elsewhere at your convenience.

Sincerely,

