



SOUTHWINDS ASSOCIATION, INC.

P.O. Box 213

Essex, Connecticut 06426-0213

<http://southwindsessex.org>

MESSAGE FROM THE PRESIDENT

November 29, 2017

Greetings Members,

Sent with this message is a revised notice and agenda for our annual meeting along with other documents. Since the delivery of the original notice, several procedural and other questions have been raised. All deserve to be addressed. Accordingly, as President, I made inquiry, considered the facts, and made the following determinations:

- 1) **With regard to proxy voting:** In accordance with the lawful and well-settled practice that enables proxies of members of associations such as ours to act in their stead, a proxy may attend the meeting, vote at the meeting, and speak at the meeting on behalf of the member.
 - a. Section 33-1072(b) of Part VI (C) of the Connecticut Revised Nonstock Corporation Act (the "Act") states, "A member entitled to vote by proxy or his agent or attorney-in-fact may appoint a proxy **to vote or otherwise act** for the member...." This law indicates that a proxy appointed by a member for a homeowners' association meeting in Connecticut may attend, vote, speak, and even make motions.
- 2) **With regard to propositions regarding two classes of membership:** The propositions regarding multiple classes of membership will not be noticed or presented for vote, and will be struck from the records of the Association as they are in violation of Connecticut law:
 - a. The Association was created under the provisions of the Act, and the Act remains the controlling statute for our Certificate of Incorporation.
 - b. The proposals regarding different treatment of members whose properties are adjacent to the pond from those members whose properties are not immediately adjacent to the pond would create two classes of members, *i.e.*, so-called abutters and nonabutters.

- c. Section 33-1055 of Part VI (A) of the Act states that, “If the corporation has one or more classes of members, the designation of such class or classes **shall be set forth in the certificate of incorporation....**”
 - d. Our Certificate of Incorporation makes no mention whatsoever of classes of members and any attempt to create classes of members by way of a by-law provision would, therefore:
 - i. violate the Act,
 - ii. be wholly unenforceable, and
 - iii. subject the Association to a lawsuit.
 - e. Accordingly, the proposals regarding two classes of members are out of order, will not be presented to the membership, and any reference to them shall be struck from the records of the Association. On this topic it should be noted that our Certificate of Incorporation states that one of the purposes of the Association is to take title to the open spaces and the pond **for the benefit** of the owners of lots 1 through 61 and provide for the maintenance and upkeep thereof. Without more, the Certificate of Incorporation treats all members as sharing benefits and obligations without difference or discrimination.
- 3) **With regard to anonymous email communications with Board members:** All email communications by association members to members of the Board must bear an email address that can be ascribed to the member sending the communication (or contain the name of the sender in the body of the message), lest they be promptly discarded. Without certainty of authorship, anonymous communications could provide a prankster or malcontent the means to detract from the open and public nature of the democratic principles on which our Association is governed.

Adrienne Y. Brochu
President



<http://www.southwindsessex.org>

Southwinds Association, Inc.

P.O. Box 213, Essex, CT 06426-0213

Revised Annual Meeting Announcement

Tuesday, December 12, 2017, 7:00 P.M. at Essex Elementary School

Dial in number: 202-458-2111, when prompted enter: 558418127#

Meeting Agenda:

1. Call to order by Adrienne Brochu.
2. Roll call by Diane Sexton.
3. Review and Approval of 2016 Annual Meeting Minutes by Adrienne Brochu.
4. Review and Approval of 2017 Open Board of Directors Meeting Minutes by Adrienne Brochu.
- I. New and Old Business:
 1. Website: Proposed Amendment to Article II Section 6 South Winds Homeowners be permitted phone-in to meetings. Review and Update Members names, phone/cell numbers and discussion of SWHOA website purpose and emails.
 2. 2017 Dam Inspection Report for Birch Mill Pond by Adrienne Brochu.
 3. Pond Committee report: Request for a Dock Addition and Pond Treatment.
 4. Open Space Committee: Open Space Report on cleanup and payments.
 5. Landscaping Committee: South Winds Drive front entrance report regarding tree pruning, Entrance sign, lighting and redesign status by Adrienne Brochu.
 6. Hire an Attorney who specialized in Homeowners Association to review and or update the By-Laws of the Southwinds Association, Inc.

7. Proposed to Article 3 Section 10 that the majority of directors may approve expenditures that do not exceed \$1,000.00 in excess of amounts budgeted or expenditures up to \$1,000.00 for items not specifically budgeted as long as the funds are available from the “contingency” portion of the approved budget.
8. 2018 Annual Dues approval
9. Nomination and Election of New Executive Board of Directors:
 1. President Adrienne Brochu Term expires December 2017. Nomination and Election of new President.
 2. Secretary Diane Sexton Term Expires December 2017. Nomination and Election of new Secretary.
 3. Treasurer John Shepard Term Expires December 2017. Nomination and Election of new Treasurer.
10. Committee Chairpersons positions and request for volunteers:
 1. Pond Maintenance Committee Chairperson Jack Kearns: Acceptance of position.
 2. Entrances & Road Right-of-Way Maintenance Committee Chairperson Judy Eppard. Acceptance of position.
 3. Open Space Committee Chairperson Peter Bonanno: Acceptance of position.
 4. Social Activities Committee Chair Theresa Connell. Acceptance of position.
11. Adjournment:

Board of Directors

Adrienne Brochu, President

John Shepard, Treasurer

Diane Sexton, Secretary

Open Position, Assistant Secretary

Proxy for Southwinds Association, Inc. Annual Meeting December 12, 2017
www.southwindsessec.org

The undersigned member of Southwinds Association, Inc. (the “Member”), being unable to attend the annual meeting to be held December 12, 2017, designates and appoints the individual named below as his or her proxy, to attend and represent the Member with the full power to vote and act for the Member in the same manner and with the same effect as if the Member were personally present on all matters below (by circling “**FOR**” or “**AGAINST**”), and other matters that may come before the meeting in his or her discretion.

FOR or AGAINST: Approval of 2016 Annual Meeting Minutes.

FOR or AGAINST: Approval of 2017 Board of Directors Meeting Minutes.

FOR or AGAINST: All Southwinds Association, Inc. Members can participate by audio or video teleconference, provided that (a) at least 1/3 of the quorum is comprised of those actually physically present at the meeting (b) those first in attendance by such means would be counted toward the 1/3 permitted to participate in that fashion; and (c) all Board members must be physically present.

FOR or AGAINST: Hire an attorney who specialized in homeowners association matters to review and or update the By-Laws of Southwinds Association, Inc.

FOR or AGAINST: Modification to Article III Section 10 of the By-Laws to increase the amount of funds so that the majority of directors may approve expenditures that do not exceed \$1000.00 in excess of amounts budgeted or expenditures up to \$1,000.00 for items not specifically budgeted as long as funds are available from the “contingency” portion of the approved budget.

FOR or AGAINST: Proposed 2108 Annual Budget.

FOR or AGAINST: Other Motion(s): _____

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The undersigned homeowner hereby appoints the following individual:

Print Name of Proxy

to be his/her/their Proxy at the 2017 Annual Meeting of Southwinds Association, Inc., and at all adjournments of such meeting.

Homeowner(s): Person/persons named on deed as legal owner

Print Name	Signature	Date
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Homeowner(s): Person/persons named on deed as legal owner

Print Name	Signature	Date
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2017 SWHOA Proxy

Southwinds Association, Inc.

2017 BALLOT

Below you will find that there are no candidates running for the offices of President, Secretary, and Treasurer of the Southwinds Association, Inc. Spaces have been provided for write-in candidates. The President, Secretary, and Treasurer will be elected for a three (3) year term at the 2017 annual meeting.

President

Secretary

Treasurer

Homeowner Information

Homeowner's Name	Homeowner's Address

Signature and Date

INSTRUCTIONS FOR COMPLETING ELECTION BALLOT

Membership has one (1) vote per address.

You may mail your ballot or place the ballot in Adrienne Brochu's mailbox at 34 Birch Mill Trail, Essex, CT. 06426.

The ballot must be received by December 11, 2017, to be considered for the vote at a 2017 Annual Meeting to be held December 12, 2017.

2017 SWHOA Ballot