



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

Enwave Energy Corporation Annual Shareholders Meeting

Date:	May 15, 2008
To:	Executive Committee
From:	City Manager
Wards:	All
Reason for Confidential Information:	This report involves the security of property belonging to the City or one of its corporations.

SUMMARY

This report recommends that the City Manager or her designate be appointed the proxy holder for the City at the Annual Shareholders' Meeting of Enwave Energy Corporation ("Enwave") to be held on July 7, 2008 or any adjournment thereof, and to obtain instructions as to how the proxy holder is to vote at the Meeting.

RECOMMENDATIONS

The City Manager recommends that City Council:

- (1) appoint the City Manager or her designate as the City's proxy holder to attend and vote the common shares of Enwave Energy Corporation owned by the City at the annual meeting of the shareholders of Enwave to be held on July 7, 2008 or any adjournment of that meeting;
- (2) direct the proxy holder to vote as follows at the Annual Shareholders' Meeting:
 - (a) approve the minutes of the previous Annual Meeting of Shareholders held on May 30, 2007;
 - (b) receive the annual financial statements of the Corporation for the period ended October 31, 2007 together with the auditor's report thereon;
 - (c) receive the un-audited financial statements for the first quarter ended January 31, 2008;

- (d) reappoint the auditors, Ernst & Young LLP, Chartered Accountants, and authorize the directors to fix their remuneration; and
 - (e) transact such other business as may properly come before the Meeting or any adjournment or adjournments thereof;
- (3) authorize and direct the Deputy City Manager and Chief Financial Officer and the City Clerk to execute on behalf of the City the common share proxy substantially in the form of Attachment 2 to this report; and
- (4) keep the contents of Confidential Attachment 4 to this report in their entirety confidential after the consideration of this report by Council except as routinely disclosed in the “Government Business Enterprises” section of the City’s Consolidated Financial Statements.

Financial Impact

The recommendations in this report have no financial impact.

Equity Impact Statement (Not Applicable)

DECISION HISTORY

The City received notice on May 12, 2008 of Enwave’s Annual Shareholders’ Meeting to be held on July 7, 2008. City Council is required to appoint a proxy holder to vote the City’s shares and to direct the actions of the proxy holder at the meeting.

ISSUE BACKGROUND

Enwave is a corporation incorporated under the *Business Corporations Act (Ontario)* (“OBCA”) on December 15, 1999, whose shareholders are the City of Toronto and BPC Penco Corporation (“BPC”), a subsidiary of OMERS. The City holds the only voting shares; BPC Penco’s shares are non-voting. A shareholders’ agreement among the parties governs the relationship among shareholders and Enwave.

COMMENTS

As a corporation, the City attends and votes at a shareholders’ meeting through a proxy holder. A proxy holder, as nominee of a shareholder, is required by law to act in accordance with the shareholder’s direction. It is recommended that the City Manager or her designate be appointed the City’s proxy holder.

Under the OBCA, a corporation must retain accurate records, including minutes of meetings and resolutions of shareholders. It is recommended that the proxy holder be authorized and directed to receive the minutes of the annual shareholders’ meeting of May 30, 2007.

Under the OBCA, financial statements are placed before each annual meeting of shareholders and shareholders are generally requested to vote in favour of receiving the financial statements. Under the section 154 (1) (a) of the Business Corporations Act (Ontario), the financial statements to be presented to shareholders at an annual general

meeting of a non-offering corporation must relate to a fiscal period ended not more than six months before that meeting. The Shareholders Agreement between the City, BPC, and Enwave requires the Board of Enwave to deliver the annual audited financial statements of Enwave to the shareholders within 120 days of fiscal year end, and the quarterly financial results to City Finance within 45 days of each fiscal quarter end. The company's fiscal year-end is October 31.

Enwave has provided the shareholders with its audited financial statements for the year ended October 31, 2007, and with its unaudited financial statements for the first quarter ended January 31, 2008, for the purposes of the annual general meeting of the shareholders, to be held on July 7, 2008. The Deputy City Manager and Chief Financial Officer has reviewed the financial statements and his summary and comments are contained in Confidential Attachment 4 to this report.

Section 3.11 of the Shareholders' Agreement provides that Ernst & Young LLP will be reappointed as Enwave's auditors unless both shareholders have consented in writing to a change. Neither the City nor BPC has requested a change. It is therefore recommended that the proxy holder be authorized and directed to vote for the reappointment of Ernst & Young LLP as the corporation's auditors for the current fiscal year, and for the remuneration of Ernst & Young LLP to be fixed by Enwave's board of directors.

It is possible that some minor other business or minor variations to the agenda items might be introduced or proposed at the annual meeting (such as a proposal to adjourn the meeting). Recommendation 2 (e) would authorize the City Manager or her designate to vote such other business as may properly come before the meeting. City staff notes that it would not be legally proper to introduce significant items of business at the meeting, as they would require advanced written notice both under the OBCA and the Shareholders' Agreement.

The OBCA and the Shareholders' Agreement require that a form of proxy be executed on behalf of a shareholder that is a corporation. It is therefore recommended that the City Manager or her designate be authorized and directed to execute on behalf of the City, the proxy substantially in the form of Attachment 2 to this report.

CONTACT

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SIGNATURE

Shirley Hoy, City Manager

ATTACHMENTS

Attachment 1: Notice of Annual General Meeting

Attachment 2: Common Share Proxy Form

Attachment 3: Minutes of the Annual Shareholders' Meeting held on May 30, 2007

Attachment 4: Confidential Information

Attachment 1

ENWAVE ENERGY CORPORATION

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

Take notice that the Annual Meeting of the holders of shares of Enwave Energy Corporation (the “Corporation”) will be held at 11:00 a.m. on the 7th day of July, 2008 at the offices of the Corporation, Suite 1710, 181 University Avenue, Toronto, Ontario, for the following purposes:

1. To approve the minutes of the Annual Meeting of Shareholders of May 30, 2007 (copies of which is enclosed herewith);
2. To receive the financial statements of the Corporation for the period ended October 31, 2007 together with the auditor’s report thereon (a copy of which is enclosed herewith);
3. To receive the un-audited financial statements for the first quarter ended January 31, 2008;
4. To reappoint the auditors, Ernst & Young LLP, Chartered Accountants, and to authorize the directors to fix their remuneration;
5. To transact such other business as may properly come before the Meeting or any adjournment or adjournments thereof.

Shareholders who are unable to attend the Meeting in person are requested to complete, sign, date and return the enclosed form of Proxy in accordance with the instructions contained therein.

Dated at Toronto, Ontario this 12th day of May, 2008.

By Order of the Chair

Krishnan Iyer
Corporate Secretary

ENWAVE ENERGY CORPORATION

COMMON SHARE PROXY

Solicited on behalf of the Management of Enwave District Energy Limited for the Annual Meeting of Shareholders to be held on July 7, 2008

The undersigned holder of common shares of Enwave Energy Corporation (the "Corporation") hereby appoints Shirley Hoy or her designate as nominee of the undersigned to attend and vote for and on behalf of the undersigned at the Annual Meeting of Shareholders to be held on July 7, 2008 and at any adjournment thereof, to the same extent and with the same power as if the undersigned were personally present at the said meeting or such adjournment thereof; and the undersigned hereby revokes all proxies previously given. Without limiting the generality of the power hereby conferred, the above-named proxyholders are specifically directed to vote all common shares registered in the name of the undersigned as follows:

1. **To vote for** approval of the minutes of the Annual Meeting of Shareholders of May 30, 2007;
2. **To vote for** the receipt and adoption of the financial statements of the Corporation for the period ended October 31, 2007, together with the report of the Corporation's auditors, Ernst & Young LLP, Chartered Accountants;
3. **To vote for** the receiptng and adoption of the un-audited financial statements of the Corporation for the quarter ended January 31, 2008;
4. **To vote for** _____ the reappointment of Ernst & Young LLP, Chartered Accountants, as auditors of the Corporation and the authorization of the directors to fix their remuneration or **to withhold from voting** _____ in respect of the appointment of auditors;
5. To vote at his or her discretion on any minor amendment or minor variation to matters specified in the notice of the Annual Shareholders Meeting or on any other minor matter that may properly come before the Annual Shareholders Meeting;

Shareholders have the right to appoint a person other than the person designated above and may exercise that right by inserting the name of their appointee in the blank space provided above for that purpose.

Dated the _____ day of _____, 2008.

Name of Shareholder: City of Toronto

Authorized Signature: _____

ENWAVE ENERGY CORPORATION

Annual Meeting of the Shareholders

Wednesday, May 30, 2007, 11:00 a.m.
Enwave Boardroom
Suite 1710, 181 University Avenue, Toronto

Minutes

Present:

Shareholders

Mr. Robert Hatton, Manager, Financial Planning
and CEO
City of Toronto

Enwave

Mr. Dennis Fotinos, President
Mr. Krishnan Iyer, CFO & Corporate
Secretary

Mr. Fotinos acted as Chair of the meeting and Mr. Iyer acted as recording secretary of the meeting. The Chair called the meeting to order at 11:05 a.m.

This annual general meeting was called at the instance of the Chair of the Board of Directors of the Corporation. Notice of the meeting was sent to the Shareholders, the Directors and the Auditors in accordance with the provisions of the shareholders' agreement. Mr. Iyer reported that each of the shareholders was represented by proxy. The Chair of the meeting noted that a quorum was present at 11:05 a.m. and declared the meeting to be properly constituted.

The notice of the meeting set out the business to be conducted and the motions to be considered.

Minute #35

Approval of Minutes of February 13, 2006 Annual Meeting of the Shareholders

In accordance with the notice of meeting, the first issue to be addressed was the approval of the minutes of the February 13, 2006 meeting.

On motion made and carried, the following resolution was passed:

RESOLVED that:

The minutes of the February 13, 2006 Annual General Meeting of the

Minute #36

Approval of Minutes of July 5, 2006 Special Meeting of the Shareholders

In accordance with the notice of meeting, the second issue to be addressed was the approval of the minutes of the July 5, 2006 meeting.

On motion made and carried, the following resolution was passed:

RESOLVED that:

The minutes of the July 5, 2006 meeting of the Shareholders be approved.

Minute #37
Audited Financial Statements

The Chair received the audited financial statements of the Corporation for the period ended October 31, 2006 prepared by Ernst & Young LLP, Chartered Accountants.

On motion made and carried, the following resolution was passed:

RESOLVED that:

The financial statements of the Corporation for the period ended October 31, 2006, together with the report of the Corporation's auditors, Ernst & Young LLP, Chartered Accountants, thereon dated December 8, 2006 are approved.

Minute #38
Interim Financial Statements

The Chair received the un-audited financial statements of the Corporation for the first quarter ended January 31, 2007.

On motion made and carried, the following resolution was passed:

RESOLVED that:

The un-audited financial statements of the Corporation for the third quarter ended January 31, 2007 are approved.

Minute #39
Appointment of Auditors

On motion made and carried, the following resolutions were passed:

RESOLVED that:

Ernst & Young LLP, Chartered Accountants, be reappointed as auditors of the Corporation to hold office until the next annual meeting of Shareholders and that the Directors of the Corporation be authorized to fix the

Minute #40 Appointment of Directors

On motion made and carried, the following resolutions were passed:

RESOLVED that:

Mr. John McManus be reappointed as a Director of the Corporation to hold office until the second annual meeting of the shareholders of the Corporation to be held after the May 30, 2007 annual shareholders meeting, or until his

There being no further business, the Chair declared the meeting concluded at **11:15am.**

Corporate Secretary