



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Enwave Energy Corporation Annual and Special Shareholders' Meeting

Date:	June 1, 2011
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.
Reference Number:	P:\2011\Internal Services\CF\Ec11018cf (AFS#13676)

SUMMARY

The purpose of this report is to: transmit the notice of the Annual and Special Shareholders' Meeting for Enwave Energy Corporation to be held on July 20, 2011; provide a confidential attachment concerning Enwave's audited annual financial statements; provide a confidential attachment concerning the proposed corporate reorganization of Enwave; and recommend the necessary Council actions and directions to staff.

RECOMMENDATIONS

The City Manager recommends that:

1. Council appoint the City Manager or his designate as the City's proxy holder for the purposes of the annual shareholders' and special meeting of Enwave Energy Corporation ("Enwave") to be held on July 20, 2011 and any adjournment of that meeting and direct the proxy holder to attend same and vote:
 - a. to approve the minutes of the 2009 Annual Meeting held on February 17, 2011;
 - b. to receive the annual audited financial statements of Enwave for the fiscal year ended October 31, 2010 together with the auditor's report on those statements;

- c. to receive Enwave's unaudited financial statements for the first quarter ended January 31, 2011;
 - d. to reappoint Ernst & Young LLP, Chartered Accountants as Enwave's auditor, and authorize the directors of Enwave to fix the auditor's remuneration; and
 - e. at the proxy holder's discretion on any minor amendment or minor variation to matters specified in the notice of such meeting or on any other minor matter that may properly come before such meeting or any adjournment thereof.
2. Council 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 proxies substantially in the form of Attachment 2 and Confidential Attachment 5 to this report.
3. Council receive the confidential report of the Deputy City Manager and Chief Financial Officer, dated May 3, 2011 entitled "Enwave Energy Corporation – Financial Statements", being Attachment 6 to this report.
4. Council adopt the recommendations in the confidential report of the Deputy City Manager and Chief Financial Officer dated May 3, 2011 entitled "Enwave Corporate Reorganization", being Attachment 7 to this report.
5. The contents of Confidential Attachment 6 to this report be kept 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.
6. The contents of Confidential Attachments 4, 5 and 7 to this report be kept confidential in their entirety after consideration of this report by Council.

Financial Impact

There are no financial impacts resulting from the adoption of this report.

DECISION HISTORY

The City has received notice (Attachment 1 and Confidential Attachment 4) dated April 26, 2011 of Enwave's Annual Shareholders' Meeting to be held on July 20, 2011. The Notice indicates that the business to be transacted is the approval of the previous minutes, receipt of financial statements, appointment of the auditor, authorization for the directors to fix the auditor's remuneration, and approval of a special resolution which is dealt with in Confidential Attachment 7 due to its confidential nature.

ISSUE BACKGROUND

Enwave is deemed to have been incorporated under the *Business Corporations Act* (Ontario) (“OBCA”) on December 15, 1999, which requires that after the first annual meeting of shareholders, such annual meetings be held subsequently at intervals no greater than fifteen months. The previous annual shareholders' meeting was held on February 17, 2011.

The shareholders of Enwave are the City and BPC Penco Corporation (“BPC”), a subsidiary of OMERS. There is a Shareholders' Agreement in place that governs the relationship among the City, BPC and Enwave. The City is the sole holder of common shares having a vote in Enwave; BPC is the sole holder of non-voting Class A shares.

Enwave is a private company that for competitive business reasons does not report its financial statements publicly. Accordingly, it is necessary that Enwave's financial statements remain confidential in their entirety except to the extent that they are routinely disclosed in the “Government Business Enterprises” section of the City's Consolidated Financial Statements.

COMMENTS

The City attends and votes its shares at shareholders' meetings through a proxy holder appointed by Council. This report recommends that the City Manager or his designate be so appointed. The proxy holder is required by law to act in accordance with the shareholder's instructions. Enwave has provided a proxy form that accord with the recommendations in this report.

Enwave has provided its audited financial statements for the year ended October 31, 2010 for the purposes of the annual shareholders' meeting as well as its unaudited first quarter statements for the period ending January 31, 2011. As in previous years, the Deputy City Manager and Chief Financial Officer has reviewed the statements submitted and prepared his own report containing comments for the information of Council (Attachment 4 to this report).

Section 3.11 of the Shareholders' Agreement provides that Ernst & Young LLP will be reappointed as Enwave's auditor 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 Enwave's auditor for the current fiscal year, and to vote in favour of authorizing Enwave's board of directors to set the auditor's remuneration.

A special resolution to be discussed at the Enwave Special Meeting is dealt with under separate cover in Attachment 7 due to the confidential nature of this resolution.

It is possible that some other minor business or minor variations to the agenda items may be introduced or proposed at the Annual Meeting. Adoption of Recommendation 1 (f) authorizes the

proxy holder to vote on such other business as may properly come before the meeting. No significant items may be introduced as new business at the meeting because such items would require advanced written notice both under the OBCA and the Shareholders' Agreement.

CONTACT

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SIGNATURE

Joseph P. Pennachetti
City Manager

ATTACHMENTS

Attachment 1: Notice of Annual and Special Meeting of Shareholders

Attachment 2: Common Share Proxy Form

Attachment 3: Minutes of the Annual Shareholders' Meeting held on February 17, 2011

Attachment 4: (Confidential) Schedule "A" to the Notice of Annual and Special Meeting of Shareholders

Attachment 5: (Confidential) Schedule "A" to the Common Share Proxy Form

Attachment 6: (Confidential) Report of the Deputy City Manager and Chief Financial Officer, dated June 1, 2011 entitled "Enwave Energy Corporation – 2010 Financial Statements"

Attachment 7: (Confidential) Report of the Deputy City Manager and Chief Financial Officer, dated June 1, 2011 entitled "Enwave Corporate Reorganization"

ENWAVE ENERGY CORPORATION

NOTICE OF ANNUAL AND SPECIAL MEETING OF SHAREHOLDERS

Take notice that the Annual and Special Meeting of the holders of shares of Enwave Energy Corporation (the "Corporation") will be held at 11:00 a.m. on the 20th day of July, 2011 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 February 17, 2011;
2. To receive the financial statements of the Corporation for the period ended October 31, 2010 together with the auditor's report thereon;
3. To receive the unaudited financial statements for the first quarter ended January 31, 2011;
4. To reappoint the auditor, Ernst & Young LLP, Chartered Accountants, and to authorize the directors to fix the remuneration;
5. To consider and, if thought advisable, pass, with or without amendment, a special resolution as set forth in the confidential Schedule "A" attached hereto; and
6. 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 Annual 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 26th day of April, 2011.

By Order of the Chair

Krishnan Iyer
Corporate Secretary

ENWAVE ENERGY CORPORATION

COMMON SHARE PROXY

Annual and Special Meeting of Shareholders to be held on July 20, 2011

The undersigned holder of common shares of Enwave Energy Corporation (the "**Corporation**") hereby appoints Joseph P. Pennachetti or his designate as nominee of the undersigned to attend and vote for and on behalf of the undersigned at the Annual and Special Meeting of Shareholders to be held on July 20, 2011 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 proxy holders are specifically directed to vote all common shares registered in the name of the undersigned as follows:

1. To vote for the approval of the minutes of the Annual Meeting held on February 17, 2011;
2. To vote for the receipt of the annual audited financial statements of the Corporation for the fiscal year ended October 31, 2010 together with the auditor's report thereon;
3. To vote for the receipt of the unaudited financial statements of the Corporation for the first quarter ended January 31, 2011;
4. To vote for the reappointment of Ernst & Young LLP, Chartered Accountants as the Corporation's auditor and to authorize the directors of the Corporation to fix the auditor's remuneration;
5. To vote for a resolution as set forth in the confidential Schedule "A" hereto; and
6. To vote at such proxy holder's discretion on any minor amendment or minor variation to matters specified in the notice of such meeting or on any other minor matter that may properly come before such meeting or any adjournment thereof.

Dated the _____ day of _____, 2011
per:

City of Toronto

Cam Weldon, Deputy City Manager and
Chief Financial Officer

Ulli S. Watkiss, City Clerk

ATTACHMENT 3

ENWAVE ENERGY CORPORATION

Annual Meeting of the Shareholders

Thursday, February 17, 2011, 11:00 a.m.
Enwave Boardroom
Suite 1710, 181 University Avenue, Toronto

Minutes

Present:

Shareholders

**Mr. Robert Hatton, Manager, Corporate Finance
CEO
City of Toronto**

Enwave

**Mr. Dennis Fotinos, President and
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 Auditor 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 #55

Approval of Minutes of October 6, 2009 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 October 6, 2009 meeting.

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

RESOLVED that:

The minutes of the October 6, 2009 Annual General Meeting of the Shareholders be approved.

Minute #56

Audited Financial Statements

The Chair received the audited financial statements if the Corporation for the period ended October 31, 2009 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, 2009, together with the report of the Corporation's auditor, Ernst & Young LLP. Chartered Accountants, thereon dated December 21, 2008 are approved and adopted.

Minute #57

Interim Financial Statements

The Chair received the un-audited financial statements if the Corporation for the third quarter ended July 31, 2010.

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 July 31, 2010 are received.

Minute #58

Appointment of Auditor

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

RESOLVED that:

Ernst & Young LLP, Chartered Accountants, be reappointed as auditor 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 remuneration of the auditor.

There being no further business, the Chair declared the meeting concluded at **11:30am**.

Corporate Secretary