



CORPORATE REPORT
The Corporation of the Town of Wasaga Beach
Meeting Date: 8/22/2024

DATE: 8/11/2024

SUBJECT: Geosands Inc. – Proposed Amendments to Shareholder Direction By-law

CONTACT: Nicole Rubli, Director of Legislative Services/Clerk

REPORT NUMBER: 2024/08/22-26

RECOMMENDATION:

1. **THAT** the report titled: Geosands Inc. – Proposed Amendments to Shareholder Direction By-law to the Council meeting of August 22, 2024, be received; and
2. **THAT** the Director of Legislative Services/Clerk be directed to bring back an amended Geosands Inc. Shareholder Direction By-law to reflect the changes proposed in this report.

EXECUTIVE SUMMARY:

- **The current Geosands Inc. Shareholder Direction By-law 2019-35 was passed April 30, 2019. The Town is the sole shareholder of Geosands Inc.**
- **The Shareholder Direction By-law provides direction from the Shareholder (the Town) to Geosands Inc. and its subsidiaries Wasaga Distribution Inc., and Wasaga Resource Services Inc.**
- **The Geosands Inc. Board of Directors have proposed amendments to the Shareholder Direction By-law for Council consideration.**

BACKGROUND:

In 2019, Council passed a new Shareholder Direction By-law for Geosands Inc. and its subsidiaries, reference Appendix "A" attached to this report. The previous Shareholder Direction By-law was passed in 2000. The current By-law addresses oversight and governance, the process and terms of board appointments, meeting records and outlines the reporting requirements to the shareholder regarding business and strategic plans.

Staff have received correspondence from Brandon Weiss, Geosands Inc. President, on behalf of the Board requesting amendments to the Shareholder Direction By-law to assist in addressing issues to enhance corporate governance for the utility.

DISCUSSION:

A summary of the Geosands Inc. Board's by-law amendment request and staff comments are outlined below.

Article IV Board of Directors of the Subsidiaries:

Proposed Amendment: Section 4.2, Board of Directors of the Corporation Subsidiaries:

It is proposed that the Shareholder consider amending the current director appointment process. Specifically, it is advised that the Corporation assume responsibility for overseeing the recruitment and selection of potential directors for its subsidiaries. Subsequently, the Corporation would present a list of preferred candidates and provide a recommendation to the Town for approval, adhering to the Town's established Appointment Policy. This proposed change aims to empower the Board with greater control over succession planning, ensure the continuity of the Board, and align the selection process with the policies of the Corporation.

Town Staff Comments: Town Staff concur with this proposed amendment. Currently, the Town as Shareholder, recruits and appoints the Geosands Inc., and its subsidiary Boards. The proposed change would allow the Geosands Inc. Board to play an integral role in the recruitment and appointment of the two subsidiary Boards. Section 4.3 of the current by-law requires that a matrix approach be used to compile an inventory of director skills in order to ensure that each Board, in its entirety, has a broad skillset represented.

Proposed Amendment: Section 4.1/Section 4.2, Board of Directors of the Corporation and the Subsidiaries:

It is proposed that the Shareholder consider amending the by-law to increase the term limit to eight (8) consecutive years from (5) five years and to include a provision to allow for reappointment after the completion of the term. The current language in the By-law states:

The Directors of the Boards of the Subsidiaries shall be appointed by the Corporation for such terms as directed by the Shareholder; provided, however, that (i) the Corporation shall not permit any Director, with the exception of the Mayor, to serve for a term in excess of five (5) consecutive years in total.

Town Staff Comments: Town Staff concur with the proposed amendments. Board succession is a critical process for the Corporation. By extending the term limits for Directors, with the exception of the Mayor, it will ensure the Board has the right mix of experience, corporate knowledge, diversity and vision. The change in term length will also allow for continuity of business operations.

Article V Shareholder Matters:

Proposed Amendment: Section 5.2, Matters Requiring Shareholder Approval:

It is proposed that Sections (f), (n), and (p), referenced below be removed as conditions requiring shareholder approval, as these sections appear somewhat redundant, given the Corporation's stipulated requirement.

Under these matters, the shareholder requires approval and neither the Corporation nor any Subsidiary will, without the approval of the Shareholder:

(f) sell or otherwise dispose of, by conveyance, transfer, lease, sale or leaseback, or other transaction, all or substantially all of its assets or undertaking, or enter into any transaction for the sale or disposition of an asset for a purchase price equal to or in excess of \$100,000.

(n) borrow money or grant a security interest in or otherwise encumber its assets except (i) for borrowings in an amount less than \$100,000, or (ii) as set out in the Business Plan.

(p) purchase or lease any real property or other material asset not included in the Business Plan having a purchase price exceeding \$100,000.

Town Staff Comments: The Town's Chief Financial Officer was consulted on this proposed amendment and concurs that the \$100,000 dollar threshold is low but feels that a monetary threshold should remain for Shareholder oversight. The Geosands Inc. Board appointed by the Shareholder, is responsible to approve the annual budget, business plan and has appointed KPMG LLP to audit the annual financial statements. Staff recommend that the \$100,000 threshold be raised to \$1,000,000.

Proposed Amendment Section 5.2 (r), Matters Requiring Shareholder Approval:

In addition to the above, it is proposed that the following conditions be reconsidered:

(r) Hire or terminate any chief executive officer (or equivalent) and/or amend, extend, or otherwise vary the terms of employment of any chief executive officer (or equivalent).

It is proposed that the Shareholder consider relinquishing their current authority over the hiring and firing of the President and CEO. Instead, it is recommended that this responsibility be transferred to the Corporate Board and that this condition be removed as part of the Shareholder Direction. The rationale behind this proposal is to align the company's practices with industry standards and best practices, with the belief that the Geosands Inc. Board of Directors possess a deeper understanding of the company's specific needs.

Town Staff Comments: Town staff concur with this proposed amendment. The President and CEO directs the operational aspects of the Corporation. The Board of Directors oversees the company as a whole and is led by the Chair of the Board. The Geosands Inc. Board is appointed by the Shareholder and should have the responsibility and authority over the hiring and firing of the President and CEO.

CORPORATE IMPLICATIONS:

Financial Implications:

There are no financial implications to the Town by amending the Shareholder Direction By-law for Geosands Inc. and its subsidiaries.

CONCLUSION:

Staff recommends that Council direct the Director of Legislative Services/Clerk to amend the Shareholder Direction By-law to reflect the proposed changes requested by the Geosands Inc.

Board. The Clerk will also include minor housekeeping amendments to the By-law and bring it to the next regular Council meeting for consideration.

Authored by:

Nicole Rubli
Director of Legislative Services/Clerk

Appendices : Appendix A - Shareholder Direction By-law 2019-35