

# Town of Whitby

## Staff Report

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### Report Title: Amendment to ONE JIB Agreement and Approval of ONE JIB Records Retention By-law

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**Report to:** Committee of the Whole

**Date of meeting:** April 8, 2024

**Report Number:** FS 07-24

**Department(s) Responsible:**

Financial Services Department

**Submitted by:**

Fuwing Wong, Commissioner, Financial Services & Treasurer, Ext. 4314

<b>Acknowledged by M. Gaskell, Chief Administrative Officer</b>
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**For additional information, contact:**

Bren Bozzer, Senior Investment and Financial Analyst

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#### 1. Recommendation:

1. That a by-law, (as shown in Attachment 1 to Report FS 07-24), in support of the Town of Whitby's involvement in the Prudent Investment offering of the ONE Joint Investment Board ("ONE JIB") be brought forward to a future Council meeting, which:
  - a. Approves an amended ONE JIB Agreement, including a revised Terms of Reference to increase the maximum number of ONE JIB members from 10 to 12;
  - b. Approves the ONE JIB Records Retention By-law and the delegation to ONE JIB's Secretary of the necessary powers and duties to deal with the records of ONE JIB; and
  - c. Approves changes to the amendment provisions of the ONE JIB Agreement.

**2. Highlights:**

- Town of Whitby is a Founding Municipality in the One Prudent Investment Program.
- At its meeting of November 29, 2023, ONE JIB approved amendments to its Terms of Reference, which form part of the ONE JIB Agreement. Most amendments were minor “housekeeping” items intended to reflect current practice. However, one substantive change to the Terms of Reference involves an increase to the size of the Board of ONE JIB to increase the maximum number of members from ten to twelve.
- At its meeting of February 28, 2024, ONE JIB enacted a Records Retention By-law. ONE JIB also approved changes to the amendment provisions of section 12.02 of the ONE JIB Agreement. By virtue of these changes, future amendments to the ONE JIB Agreement would require approval of the Participating Municipalities only where required by applicable law.
- The Participating Municipalities of ONE JIB have been asked to approve these changes by by-law in order to satisfy the terms of the ONE JIB Agreement and the Municipal Act (“the Act”) regarding records retention by local boards such as ONE JIB.

**3. Background:**

Since July 2, 2020 the Town of Whitby has been a Founding Municipality in the ONE Joint Investment Board. ONE JIB currently invests Monies Not Required Immediately (MNRI) on behalf of 11 Ontario municipalities with the potential for this number to grow significantly in future years. For the Town of Whitby, MNRI is generally funds not required to be used/spent for over 24 months.

The ONE JIB Terms of Reference were developed prior to the establishment of ONE JIB and embedded as a schedule to the ONE JIB Agreement. ONE JIB entered into a ONE JIB Agreement with the original six Founding Municipalities (which are also referred to as “Participating Municipalities”) in 2020, and subsequently with five new Participating Municipalities. ONE JIB reviewed and amended its Terms of Reference in 2023.

ONE Investment, pursuant to a Services Agreement with ONE JIB is, and will continue to be, responsible for the maintenance of proper and complete records in connection with the ONE Prudent Investment Program.

ONE JIB is a local board within the meaning of the Act and constitutes a local board of each Participating Municipality. Under Section 254 of the Act, the Participating Municipalities are jointly responsible for retaining and preserving the records of ONE JIB in a secure and accessible manner. Under Section 255 of the Act, a majority of the Participating Municipalities as “affected municipalities”, may establish retention periods during which the records of ONE JIB must be retained and preserved in a secure and accessible manner. The Act provides that ONE JIB’s records may be destroyed if a retention period for a particular record has been established and the retention period has

expired (or if the record is a copy of the original copy). This is the same provision of the Act that applies to the Participating Municipalities, all of which have different Record Retention By-laws that apply to each of the Participating Municipalities' records.

The ONE JIB Records Retention By-law applies solely to the records of ONE JIB and has no impact on the Participating Municipalities or their records.

#### **4. Discussion:**

### **ONE JOINT INVESTMENT BOARD TERMS OF REFERENCE**

At its meeting of November 29, 2023, the ONE JIB Terms of Reference were amended to address various housekeeping and clerical amendments. They were also amended to allow for a potential change to ONE JIB's membership to better position ONE JIB to attract large Ontario municipalities and grow financial assets under management, which is to the benefit of all Participating Municipalities. This change is subject to the approval of the Participating Municipalities, as noted below.

In anticipation of a large municipal investor wanting to potentially join the ONE Prudent Investment Program and invest through ONE JIB, and to support the desire of the Board to strengthen its municipal finance knowledge, the Board is seeking to add more individuals with the desired municipal skills. However, the Act limits the number of municipal treasurers that serve on ONE JIB to 25% of its members. The Board has approved an increase in the maximum number of ONE JIB members from 10 to 12 members to enable a third municipal treasurer to serve on the Board. Currently the municipal treasurer representatives on the Board of ONE JIB are:

- Mike Melinyshyn, CFO/Director of Corporate Services and Deputy Treasurer, Town of Innisfil
- Stephen Rettie, Chief Administrative Officer/Deputy Treasurer, Town of Bracebridge

The ONE Joint Investment Board reports that through consultation with their Legal Counsel, WeirFoulds LLP, it has been determined that the ONE JIB Agreement requires each Participating Municipality to pass a By-law to approve the increase in the number of members on the ONE JIB. This change will support effective governance and future growth opportunities.

### **ONE JOINT INVESTMENT BOARD RECORDS RETENTION BY-LAW**

ONE JIB is a local board of more than one municipality under s. 255(4) of the Act. As such, a majority of the Participating Municipalities, as "affected municipalities" under the Act, may establish retention periods during which the records of ONE JIB must be retained and preserved.

To achieve these requirements, at its February 28, 2024 meeting ONE JIB enacted a Records Retention By-law prescribing retention periods for ONE JIB records. The By-law provides for a delegation to allow for the ONE JIB Board Secretary, in consultation with

the appropriate officials of ONE Investment, to establish procedures for the retention and disposition of the Board's records and establish and amend classes of records and retention periods. This provision mirrors one in the most recent Records Retention By-laws of some municipalities that give similar authority to the municipal clerk now that the Act no longer requires municipal auditor approval for the By-laws. The purpose of this By-law and delegation is to avoid ONE Investment having to return to all Participating Municipalities in the future for records retention-related changes that are largely administrative in nature and do not affect the Participating Municipalities.

The One Joint Investment Board reports that through consultation with their Legal Counsel, WeirFoulds LLP, it was determined that a By-law of each Participating Municipality is required to provide for the establishment of retention periods for ONE JIB records, as well as to delegate to the Secretary of ONE JIB the necessary powers and duties to deal with such records as set out in the Records Retention By-law.

Attachments 3 and 4 of this report contains the Records Retention By-law that was approved at the February 28, 2024, ONE JIB meeting.

## **Conclusion**

Staff are supportive of the ONE JIB Records Retention By-law and the changes to the ONE JIB Agreement, including a revised Terms of Reference.

The Records Retention By-law applies only to ONE JIB's records and does not affect this municipality. The change to the maximum number of ONE JIB members from 10 to 12 will give ONE JIB the opportunity to add more members with the desired expertise as well as the potential to attract investments by larger municipalities.

The changes to the amendment provisions of section 12.02 of the ONE JIB Agreement will maintain the need for Participating Municipalities to approve any amendments that are required by applicable law.

Therefore, it is recommended that Council pass the attached authorizing by-law at a future Council meeting.

## **5. Financial Considerations:**

Not Applicable.

## **6. Communication and Public Engagement:**

Not Applicable.

## **7. Input from Departments/Sources:**

The ONE JIB Records Retention By-law has been reviewed by the Town Clerk's Office.

## **8. Strategic Priorities:**

Not Applicable.

**9. Attachments:**

Attachment 1 - Draft By-law XXXX-24 - Amendment to ONE JIB Agreement and Approval of ONE JIB Records Retention By-law

Attachment 2 - ONE JIB Draft Records Retention By-law

Attachment 3 - Schedule "A" to the ONE JIB Records Retention By-law – ONE JIB Records Retention and Classification

Attachment 4 - Amended ONE JIB Agreement