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<b>TO:</b>	<b>GENERAL COMMITTEE</b>
<b>SUBJECT:</b>	<b>CONSIDERATION OF A REQUEST FROM THE BLUE DOT GROUP</b>
<b>PREPARED BY AND KEY CONTACT:</b>	<b>C. MARCHANT, MANAGER OF WATER OPERATIONS EXT. 6145</b>
<b>SUBMITTED BY:</b>	<b>J. THOMPSON, P.ENG., CMM III IP, PMP DIRECTOR OF ENVIRONMENTAL SERVICES</b>
<b>GENERAL MANAGER APPROVAL:</b>	<b>R. FORWARD, MBA, M.Sc., P.ENG. GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT</b>
<b>CHIEF ADMINISTRATIVE OFFICER APPROVAL:</b>	<b>M. PROWSE, CHIEF ADMINISTRATIVE OFFICER</b>

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#### **RECOMMENDED MOTION**

1. That Staff Report ENV002-18 concerning the consideration of a request from the Blue Dot Group be received for information purposes.

#### **PURPOSE & BACKGROUND**

2. The purpose of this Staff Report is:
  - a) Report back to General Committee with respect to the "Declaration of the Right to a Healthy Environment" as proposed by the Blue Dot Environmental Rights Group; and
  - b) Share staff's findings and recommendations with the Committee.
3. The Blue Dot Environmental Rights Group is a project of the David Suzuki Foundation and sponsors, as confirmed on their website (<http://bluedot.ca/>).
4. The Blue Dot Group first approached Barrie with their proposed declaration via the Environmental Advisory Committee at their meeting on May 6<sup>th</sup>, 2015. The minutes of which went to General Committee on September 21<sup>st</sup>, 2015, prompting motion 15-G-177, referring the information to the Environmental Services Department for a Report.
5. The proposed Declaration (see Appendix "A", herein) requested by Blue Dot to be in the form of a binding Council resolution, would commit the City of Barrie to assume responsibility within its boundaries to "respect, protect, fulfil and promote a number of rights", including:
  - a) "The right to live in a healthy environment";
  - b) "The right to clean air";
  - c) "The right to consume safe food"; and
  - d) "The right to participate in decision-making that will affect the environment."

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## **ANALYSIS**

6. Barrie, as a Municipal Corporation, does not have full legislative control over the items in paragraph 4 above and should refrain from making commitments which are in the jurisdiction of other levels of government.
7. While the objectives of the Blue Dot would appear noble (see Appendix A, herein), the proposed declaration raises questions of jurisdictional roles of government further overlapping different areas of constitutional responsibility in matters of the environment. The proposed declaration, while it appears to be non-binding, may be contested by affected parties by raising jurisdictional issues in order to challenge the validity of the declaration, which may in turn be used by interest groups to hold the City liable for decisions affecting land use, development and potentially economic development.
8. The precautionary principle denotes a duty to prevent harm, when it is within our power to do so, even when all the evidence is not in. This principle has been codified in several international treaties to which Canada is a signatory. Domestic law makes reference to this principle but implementation remains limited (CELA, 2015).
9. The environment is such a diffuse subject, affecting many different areas of constitutional responsibility, that each of the three levels of government is in some way regulating it. Environmental issues often transcend political and administrative boundaries, and can overlap all three levels of government (Greenbaum & Wellington, 2010: p.71). Historically, in matters of environment, the common practice at the time of the writing of the British North American Act was to accord jurisdiction over natural resources to the "level of government that controlled the territory in which they were located" (Hessing, Howlett & Summerville, 2005: 60). In section 92a of the Constitution Act of 1982, provincial powers were reaffirmed on control over land and resources but maintained clear federal authority to legislate over environmental matters that are international and with interprovincial reach. The jurisdiction of the federal government in terms of national environmental standards is shared between the federal and provincial jurisdictions. There are however, conceptual powers where the federal government has "general authority to legislate over broadly defined activities which by analogy or implication include matters of environmental quality" (Bowden, 2003: 42). Further, the federal government also has the capacity to legislate under the peace, order and good government (POGG) power. The federal government's POGG powers are meant to cover legislative gaps such as the environmental matters of national concern (Monahan, 2002: 105).
10. Given the subordinate position of municipal governments to provincial and territorial governments (Garcea & LeSage, 2005: 314), and the powers of municipal governments to pass legislation (bylaws) dealing directly with the environment and public health matters, those bylaws may be contested by affected parties by raising jurisdictional issues in order to challenge the validity of the by-law (McKay-Panos, 2005: 12). In matters of municipal legislation for environmental matters it is crucial that such legislation not be inconsistent with federal or provincial statutes or regulations (Greenbaum & Wellington, 2010: p.88-89).
11. The proposed declaration poses potential financial, legal or other implications to the City of Barrie. The City of Barrie already acts on most of the types of environmental initiatives referred to in the declaration in harmonization with existing federal and provincial legislation. There can be significant planning, development, and land use implications arising from environmental and human health issues as it currently stands under land use plans, policies and zoning bylaws. A declaration such as the proposed by the Blue Dot initiative will add an additional level of complexity not only to land use and zoning but also to infrastructure and private property rights. The precautionary principle proposed in the Blue Dot initiative will add complexity to the cumulative impacts caused by new development, growth and infrastructure. The Province of Ontario is currently developing policies that consider cumulative impacts as part of a climate change policy under development, which conceptually covers all the initiatives associated with the Blue dot declaration (MOECC mandate letter, Sep 25-2014).

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12. Although some municipalities have been reported as having adopted the declaration, our research suggests among them many have substantially alter the wording. The Blue Dot website suggests that as of February, 2018, some 160 municipalities across Canada have entertained the declaration with some form of adoption, remembering that there are over 440 Municipalities in Ontario alone, the percentage entertaining adoption is relatively low.

#### **ENVIRONMENTAL MATTERS**

13. There are no environmental matters related to the recommendation.

#### **ALTERNATIVES**

14. An alternative is to consider adopting an amended declaration with substantial changes in the text, to reflect the shared jurisdiction of the federal and provincial governments on matters national environmental standards, and the federal government's powers, under the peace, order and good government (POGG) meant to cover legislative gaps such as the environmental matters of national concern. This approach is not recommended as it may still lead to unfillable obligations and unrealistic expectations.

#### **FINANCIAL**

15. There are no direct financial implications associated with the recommended motions.

#### **LINKAGE TO COUNCIL STRATEGIC PRIORITIES**

16. The recommendations included in this Staff Report are not specifically related to any of City Council's Strategic Priorities.

APPENDIX "A"  
Blue Dot Campaign Information

BLUE DOT CAMPAIGN

*Today*  
*we decide on the right to a*  
*healthy environment*  
*for all Canadians.*

Watch video and pledge online at: [www.bluedot.ca](http://www.bluedot.ca)

KEY MESSAGES

- More than 110 nations recognize their citizens' right to live in a healthy environment.
- **But not Canada.**
- The right to a healthy environment is the simple yet powerful idea that all Canadians deserve to breathe fresh air, drink clean water and eat healthy food.
- This is about protecting the people and places we love.
- Every Canadian deserves a future that is healthier and more secure. With people from all walks of life coming together, we can make it happen.

FIGURES AND STATS

- Half of all Canadians live in areas where they are exposed to unsafe levels of air pollution.
- Canada has no national safety regulations for drinking water or binding air quality standards.
- The total costs of pollution in Canada are more than \$100 billion a year.
- About 85 per cent of Canadians support the right to a healthy environment.

WHY A MUNICIPAL DECLARATION?

- Declarations are a commitment by municipalities to address local environmental concerns.
- Municipal governments make decisions that affect the quality of the environment.
- A municipal declaration is a commitment to principles that will protect, fulfill and promote the right to a healthy environment.
- This is critical to changing the charter and seeing legislative policies enacted at other levels of government.

## APPENDIX "A" Continued

By December 31st, 2015, the **City of Barrie** will consider objectives, targets, timelines and actions within its jurisdiction to fulfill residents' right to a healthy environment, including options to:

Ensure equitable distribution of environmental benefits and burdens within the municipality, preventing the development of pollution "hot spots";

Ensure infrastructure and development projects protect the environment, including air quality;

Address climate change by reducing greenhouse gas emissions and implementing adaptation measures;

Responsibly increase density;

Prioritize walking, cycling and public transit as preferred modes of transportation;

Ensure adequate infrastructure for the provision of safe and accessible drinking water;

Promote the availability of safe foods;

Reduce solid waste and promote recycling and composting;

Establish and maintain accessible green spaces in all residential neighbourhoods.

The **City of Barrie** shall review these objectives, targets, timelines and actions every five (5) years, and evaluate progress towards fulfilling this declaration.

The **City of Barrie** shall consult with residents as part of this process.

BE IT FURTHER RESOLVED THAT the **City of Barrie** forward this resolution to the Association of Municipalities of Ontario, and the Federation of Canadian Municipalities and member local governments, requesting favourable consideration by local councils and by delegates at the 2015 annual meetings of these associations.

AND BE IT FURTHER RESOLVED THAT the **City of Barrie** shall send a letter to the provincial government and to the federal government calling for the development of provincial and federal legislation that recognizes that all people have the right to live in a healthy environment.

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APPENDIX "A" Continued

**SUBJECT: Declaration of the Right to a Healthy Environment**

**MOTION**

WHEREAS the **City of Barrie** understands that people are part of the environment, and that a healthy environment is inextricably linked to the well-being of our community;

AND WHEREAS the David Suzuki Foundation Blue Dot campaign is inspiring many Canadians to request that the right to a healthy environment be enshrined in the Canadian Charter of Rights and Freedoms;

THEREFORE BE IT RESOLVED THAT the **City of Barrie** endorses the following declaration:

"All people have the right to live in a healthy environment, including:

The right to breathe clean air;

The right to drink clean water;

The right to consume safe food;

The right to access nature;

The right to know about pollutants and contaminants released into the local environment;

The right to participate in decision-making that will affect the environment.

The **City of Barrie** has the responsibility, within its jurisdiction, to respect, protect, fulfill and promote these rights.

The **City of Barrie** shall apply the precautionary principle: where threats of serious or irreversible damage to human health or the environment exist, the **City of Barrie** shall take cost-effective measures to prevent the degradation of the environment and protect the health of its citizens. Lack of full scientific certainty shall not be viewed as sufficient reason for the **City of Barrie** to postpone such measures.

The **City of Barrie** shall apply full-cost accounting: when evaluating reasonably foreseeable costs of proposed actions and alternatives, the **City of Barrie** will consider costs to human health and the environment.