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RESOLUTION NO. 09-63

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LITIGATION; PROVIDING AUTHORIZATION FOR THE VILLAGE TO JOIN THE CITY OF WESTON IN ITS LITIGATION TO CHALLENGE THE CONSTITUTIONALITY OF THE GROWTH MANAGEMENT ACT ENACTED UNDER SENATE BILL 360; PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Eugene P. Flinn, Jr.].

WHEREAS, the State Legislature enacted sweeping changes to chapter 162, of the Florida Statutes, known as the Growth Management Act and,

WHEREAS, the State Legislation, under Senate Bill 360, known as the "Community Renewal Act" proposes doing away with the Development of Regional Impact (DRI) processes of Chapter 162; proposes doing away with transportation concurrency; enacts sweeping changes to the housing element of Chapter 162, and provides a two year extension on all development orders; and,

WHEREAS, the language of the Act is unclear, prompting disagreements between attorneys for developers and local governments as to its applicability; and,

WHEREAS, the Act could have negative impacts in the Village of Palmetto Bay for the following reasons: (1) the extension of existing development orders and the other provisions of the act could reactivate expired development orders and could rescind development agreements and the conditions and promises made therein; (2) the state action would preempt local governments from denying future land use map amendments to the comprehensive plan based upon transportation levels of service; (3) it would eliminate the process of review for DRI's, which means major development projects will be able to proceed without regard to cross-jurisdictional impacts; (4) it would eliminate state-mandated traffic concurrency without input from or regard to the impact on the neighboring jurisdictions; (5) the state action would preempt local governments from requiring security cameras in private business locations, strictly local matter; (6) it would require mandatory expenditure of substantial funds by local governments to amend their comprehensive plans to fund mobility and otherwise comply with the act; and (7) it would potentially transfer the costs for mitigating traffic impacts from developers to tax payers; and,

WHEREAS, the City of Weston has filed suit challenging the constitutionality of SB 360 for violating: (1) Article VII, Section 18 of the Florida Constitution, which prevents the legislature from imposing requirements on local governments without providing a means to pay for such requirements (The "Unfunded Mandate Provision"); and (2) Article III, Section 6 of the Florida Constitution, which requires that every law embrace only one subject (the "Single Subject Provision").

