

# **Board of County Commissioners**

## **Agenda Request**

Date of Meeting: September 7, 2010

Date Submitted: August 24, 2010

To: Honorable Chairman and Members of the Board

From: Commissioner Lynn Artz, District 5

Subject: Request Board Approval of a Resolution Encouraging The Florida Fish and Wildlife Conservation Commission to Consider and Acknowledge Local Government Home Rule Authority In Its Rule-Making and Enforcement

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### **Statement of Issue:**

This agenda item requests Board approval of a Resolution encouraging The Florida Fish and Wildlife Conservation Commission to consider and acknowledge local government home rule authority in its rule-making and enforcement. This resolution would encourage cooperation between the Florida Fish and Wildlife Conservation Commission and Wakulla County on the issue of licensing of captive wildlife facilities.

### **Background:**

Wakulla County possesses the home rule authority granted in the Florida Constitution and Florida Statutes to exercise the broad powers of self-government, including legislative, quasi-judicial, and enforcement powers related to building codes and zoning, and land use within its County borders. The Florida Fish and Wildlife Conservation Commission (the "FWCC") possesses the powers granted to it pursuant to art. IV, sec. 9 of the Florida Constitution, including the "regulatory and executive powers of the state with respect to wild animal life," which powers are subject to requirements to insure due process in the exercise of its regulatory and executive powers.

### **Analysis:**

In the arena of captive wildlife regulation, FWCC's current and proposed regulations purport to govern captive wildlife facility locations, particularly for Class I and Class II animals, without deference to or effective recognition of valid local government zoning ordinances and building codes, which has led to FWCC's issuance of captive wildlife licenses and the construction and location of captive wildlife facilities which may or may not comply with local government zoning and building regulations. These rules are currently being revised, but the latest draft changes to current FWCC rules regulating captive wildlife provides only notice to a local government of a pending application for a Class I or Class II license, which does not adequately protect all parties involved from the potential co-location of incompatible uses, does not adequately provide due process for all affected parties through either legislative or quasi-judicial proceedings, and does not adequately acknowledge the existence or importance of compliance with local building codes or zoning regulations.

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If approved, this Resolution would encourage and call for consideration and coordination between FWCC and local governments in the licensing of captive wildlife facilities.

**Options**

1. Adopt the Resolution Encouraging The Florida Fish and Wildlife Conservation Commission to Consider and Acknowledge Local Government Home Rule Authority In Its Rule-Making and Enforcement.
2. Do not Adopt the Resolution Encouraging The Florida Fish and Wildlife Conservation Commission to Consider and Acknowledge Local Government Home Rule Authority In Its Rule-Making and Enforcement.
3. Board Direction.

**Recommendation**

Option #1

**Attachments:**

1. Resolution Encouraging The Florida Fish and Wildlife Conservation Commission To Consider And Acknowledge Local Government Home Rule Authority In Its Rule-making And Enforcement