

I, Sandra J. Kline, Acting Town Clerk of the Town of Chapel Hill, North Carolina, hereby certify that the attached is a true and correct copy of (2009-04-15/R-0.1) adopted by the Chapel Hill Town Council on April 15, 2009.

This the 16th day of April, 2009.

A handwritten signature in black ink, appearing to read "Sandra J. Kline", written over a horizontal line.

**Sandra J. Kline
Acting Town Clerk**



A RESOLUTION OF THE TOWN OF CHAPEL HILL AGAINST SENATE BILL 1004 AND HOUSE BILL 1252 *Level Playing Field Act* (2009-04-15/R-0.1)

WHEREAS, Senate Bill 1004 (HB 1252) , *The Level Playing Field Act*, have been introduced in the 2009 Session of the General Assembly of North Carolina, and referred to the Senate Commerce Committee and House Committee on Science and Technology, respectively; and

WHEREAS, these bills do not provide a “level playing field” to cities, towns and counties. but greatly hinder local governments from providing needed communications services, especially advanced high-speed broadband services, in underserved areas; and

WHEREAS, the bills do not provide a “level playing field,” but instead impose numerous obligations on cities and towns that private broadband companies do not have to meet; and

WHEREAS, private companies, despite having received favorable regulatory and tax treatment to enable broadband investment, have chosen to avoid the financial commitment necessary to provide top quality services, instead offering lesser quality, slow non-state-of-the-art infrastructure technologies that are **not even** available to all residents; and

WHEREAS, while private companies declare top quality service is cost-prohibitive in our country, the United States continues to lose ground to other nations in broadband access, cost and growth in number of users, falling behind the United Kingdom, Korea, France, Japan and Canada to name a few, and Japan has internet access that is at least 500 times faster than what is considered high-speed in the United States and at less cost; and

WHEREAS, the U.S. Congress provided funds in the American Recovery and Reinvestment Act (federal stimulus) to reverse our country’s catastrophic broadband decline by making local and state governments, and not private communication companies, directly eligible for \$4.7 billion in federal grants to provide affordable access to high capacity broadband services in unserved and underserved areas; and

WHEREAS, the bills would prohibit North Carolina cities and towns from using federal grant funds to deploy or operate locally-owned or operated broadband systems, thereby denying N.C. residents access to billions of dollars of federal assistance available to the rest of the country and hindering employment opportunities; and

WHEREAS, deployment of true high-speed broadband internet is a new public utility vital to the future economic development, educational outreach, and community growth in North Carolina necessary to replace lost textile, tobacco, furniture and manufacturing jobs; and

WHEREAS, the General Assembly has already established 1) statutory provisions for Public Enterprises (NCGS Chapter 160A, Article 16); 2) conservation finance provisions in the Budget and Fiscal Control Act (NCGS Chapter, 159 Article 3); and 3) oversight by the Local Government Commission (NCGS Chapter, Article 2) and a local government must comply with

all of those requirements in order to undertake providing an enterprise service to its community;
and

WHEREAS, the bills are counter to the Local Development Act of 1925 in NCGS Chapter 158 that allows local governments to aid and encourage economic development in communities throughout North Carolina; and

WHEREAS, North Carolina law has long permitted local governments to engage in public enterprises and there is no justification for treating communications enterprises differently from other public enterprises that are essential for a sound economy; and

WHEREAS, historically it was government that funded much of the current corporate telecommunications infrastructure in the United States and government paid for and developed the Internet; and

WHEREAS, there are telecommunications designers, equipment manufacturers and suppliers in North Carolina who will be negatively affected if local governments are not allowed to provide needed communications services, meaning that North Carolina will stand to lose more jobs by not investing in top-quality broadband infrastructure than it will lose due to government provision of such services; and

WHEREAS, many for-profit companies with operations in North Carolina joined our local governments in opposing these bills;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of the Chapel Hill opposes Senate Bill 1004 and House Bill 1252 and urges all members of the North Carolina General Assembly to vote "no" in committee and, if necessary, on the floor of the General Assembly.

This the 15th day of April, 2009.