

**Upson County Board of Commissioners
October 11, 2016 Meeting Minutes**

Call to Order

Chairman Blackston calls the meeting to order at 6:00 PM. All Commissioners were in attendance. County Attorney Paschal English was also in attendance. The Invocation and Pledge of Allegiance was led by Commissioner Hudson.

Minutes

A motion was made by Comm. Spraggins, with a second from Comm. Ellington, to adopt the following minutes. The motion carries.

- September 20, 2016 Joint Project Budget Meeting
- September 27, 2016 Regular Meeting

Commissioner Hudson – Yes Chairman Blackston – Yes
Commissioner Ellington – Yes Commissioner Wilder – Yes
Commissioner Spraggins – Yes

Public Comments

No public comments

New Business

- a. Mr. Clifford McSwain addressed the board.

Prepared statement for the commission meeting of October 11, 2016

Chairman Blackston and fellow commissioners. I am Clifford McSwain and this is my partner Tim Helton

I am a native Upsonian, having been born, reared, and lived in Upson since 1928 except for my college years and 4 years in the US Air Force.

During the great depression we subsisted by making and selling various items.

This continued through my childhood until I was old enough to work away from home.

My purpose here tonight is to request a continuation of a work (business) which we started in 1997. While I was teaching at Gordon College, Tim was creating unique birdhouses (fabricating them, painting them and occasionally selling one) in the bedroom of a rented apartment.

We continued to do this in our home and small barn at 6631 Crest Highway, Molena, Ga. (Upson county) until recently when we applied for a license to continue the operation in a new building—a barn we had moved in—and converted it to a shop for painting art work, jewelry-making as well as dried flower arrangements.

We were denied a license under the grandfather clause because they said we had operated illegally(not having a license). The courts have said in essence that if a business has continued to operate with no notification of illegality they were presumed to be doing business legally.*. However some courts have found where the landowner has acted in reliance upon the conduct of municipal officials and where he could suffer a substantial loss were the zoning ordinance enforced. The city may be precluded from stopping a violation”

*McQuillen, Municipal Corporations Par.25.153—as per text message from Dodd Moore, MTAS legal consultant

We landscaped the building and made it a nice property near our residence. The inside is nicely appointed and decorated as a gift shop with paintings, jewelry, bird houses, and floral arrangements.

Tim's art work is in the homes of many Upsonians as we as people across the U S. A painting of the new Warm Springs Welcome Center was commissioned and the original presented to the Governor at the dedication of the center. He was also commissioned to paint the Upson County court house as well as many homes of prominent people. These were painted on birdhouses. He also painted the Callaway chapel and Callaway gardens and copies of these were sold in our shop in Warm Springs (which we operated with a business license). Much of the art work sold in Warm Springs was done at home—sometimes by his wife.

Not only would we hopefully produce tax money for Upson County, but we would also provide unique gifts for our county people and hopefully many others.

Thank you for your indulgence. We also have pictures of our shop as well as pictures of other works if anyone would like to see them.

Mr. Doug Carrier explained that explained that there has been a lack of payment of occupational tax for several years going back, also the ordinance does not allow an home occupation to occupy a separate building from the home. There may some grandfather in business, but this is not one.

- b. Chairman Blackston stated that the Solid Waste has been updated and available for review. This is considered the second reading.

A motion was made by Commissioner Spraggins with a second from Commissioner Hudson to approve the ordinance.

Commissioner Hudson – Yes Chairman Blackston – Yes
Commissioner Ellington – Yes Commissioner Wilder – Yes
Commissioner Spraggins – Yes

- c. Jim Wheelless explained that previously the board voted not to work on a sign ordinance. Since they have agreed that the county does need some type of sign ordinance. Chairman Blackston explained that the discussed this at the last retreat and this is going to take some time to complete.

Commissioner Wilder made a motion to put a 90 day moratorium on acceptance of applications for sign permits, with a second from Commissioner Spraggins.

STATE OF GEORGIA
COUNTY OF UPSON

**A RESOLUTION OF THE UPSON COUNTY BOARD OF COMMISSIONERS
ENACTING AN EMERGENCY 90-DAY MORATORIUM ON ACCEPTANCE OF
APPLICATIONS FOR SIGN PERMITS AND OTHERWISE PROHIBITING THE
ERECTION OF SIGNS THAT DO NOT REQUIRE A PERMIT, EXCEPT FOR
THOSE SET OUT IN THIS RESOLUTION.**

WHEREAS, Upson County Ordinances currently regulate the use of signage throughout Upson County, Georgia ("Upson County"); and

WHEREAS, on June 18, 2015, the United States Supreme Court adopted sweeping restrictions on government regulation of signs in Reed v. Town of Gilbert, 2015 WL 2473374 (June 18, 2015) ("Reed decision") in which one Justice noted "thousands of towns have such ordinances...and courts will have to invalidate one after the other"; and

WHEREAS, the Upson County Board of Commissioners ("Upson County") has asked the County Attorneys to evaluate the impact of the Reed decision and whether any revisions need to be made to the County's Ordinances in order to satisfy the requirements set forth in the Reed decision; and

WHEREAS, the Upson County Board of Commissioners desires to continue to protect the interests of public health, safety and welfare (including, but not limited to, traffic safety and aesthetics) while the Board of Commissioners considers the impact of the Reed decision; and

WHEREAS, the Georgia Supreme Court has held that a moratorium with respect to application of a zoning ordinance may be put in place for a reasonable period of time without the necessity of complying with the notice requirements of the Georgia Zoning Procedures Law; and

WHEREAS, the Upson County Board of Commissioners finds it appropriate that a moratorium barring for 90 days the acceptance of applications for sign permits pursuant to said County requirements and further barring for 90 days the erection of any signage that otherwise is exempt from permitting under the County's Ordinances, however, that any temporary signs and/or State of Georgia signs so required and in the interest of public safety shall be allowed during the moratorium period.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR UPSON COUNTY, GEORGIA, AS FOLLOWS:

1. The Board of Commissioners for Upson County, Georgia does hereby enact a moratorium barring for 90 days the acceptance of applications for sign permits pursuant to any and all requirements and Ordinances and further barring for 90 days the erection of any signage that otherwise is exempt from permitting, provided, however, that temporary standard

STATE OF GEORGIA
COUNTY OF UPSON

informational signs so required in the interest of public safety and/or signage required by the State of Georgia shall be allowed during the moratorium period.

2. The moratorium imposed by this Resolution shall terminate on the earliest date of (1) 90 days from the date of adoption of this Resolution; (2) approval by the Upson County Board of Commissioners of an additional moratorium after a public hearing; (3) the adoption of an amendment and/or enactment of a Upson County Sign Ordinance; or (4) the Upson County Board of Commissioner's action terminating the moratorium within the 90 day period.
3. This Resolution shall be effective immediately upon a majority vote by the Upson County Board of Commissioners.
4. Any sign permit application that has been received prior to the moratorium may be processed and, if appropriate, a permit issued. Any sign permitted based upon an application having been tendered prior to the moratorium may be erected during the moratorium period.

SO RESOLVED this _____ day of October, 2016, the public's health, safety, and welfare demanding it.

For the Board of Commissioners

RUSTY BLACKSTON
Chairman, Upson County Board of Commissioners

ATTEST:

Jessica Jones
CCOUNTY CLERK

Seal:

Commissioner Hudson – Yes Chairman Blackston – Yes
Commissioner Ellington – Yes Commissioner Wilder – Yes
Commissioner Spraggins – Yes

d. The board has reviewed the service agreement for the rental software at Sprewell Bluff.

A motion was made Commissioner Ellington, with a second from Commissioner Spraggins to approve the agreement.

Commissioner Hudson – Yes Chairman Blackston –Yes
Commissioner Ellington – Yes Commissioner Wilder – Yes
Commissioner Spraggins – Yes

County Manager, Commissioners and County Attorney Comments

County Manager Jim stated that the dues for Two Rivers are coming up. Also the voting person which is currently Commissioner Hudson will need to be replaced.

DNR has reached an agreement with Georgia Power to complete the power project at the campground at Sprewell Bluff.

Budget work sessions have been scheduled.

Commissioner Wilder had no comments.

Commissioner Ellington stated that the new boat ramp at Sprewell Bluff is up and running.

Commissioner Hudson had no comments

County Attorney Paschal English had no comments.

Chairman Blackston stated there will be a celebration on October 29, where Mt. View Baptist will be honoring all Vietnam Veterans. The church can be contacted for more information.

Commissioner Spraggins had no comments.

Adjournment

Comm. Spraggins made a motion to adjourn at 6:25 pm, with a second by Comm. Ellington to adjourn the meeting.

Chairman Rusty Blackston

Commissioner Steve Hudson

Commissioner Frank Spraggins

Commissioner Lorenzo Wilder

Commissioner Ralph Ellington

Jim Wheelless, County Manager