



The Attorney General of Texas

March 10, 1983

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Honorable James W. Smith, Jr.
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P. O. Box V
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Opinion No. JM-6

Re: Whether the commissioners court may exclude the county clerk from its executive session meetings

Dear Mr. Smith:

You have asked whether the commissioners court of Frio County may exclude the county clerk from executive sessions of the court. You contend that inasmuch as the county clerk is ex officio clerk of the commissioners court, articles 1940 and 2345, V.T.C.S., she is, in most instances, entitled to attend such sessions.

Section 2(a) of article 6252-17, V.T.C.S., the Open Meetings Law, provides in part as follows:

Except as otherwise provided. . . every. . . meeting or session of every governmental body shall be open to the public; and no closed or executive meeting or session of any governmental body for any of the purposes for which closed or executive meetings or sessions are hereinafter authorized shall be held unless. . . (Emphasis added).

Section 1 of this article provides:

(a) 'Meeting' means any deliberation between a quorum of members of a governmental body at which. . . .

(c) 'Governmental body' means. . . every Commissioners Court. . . in the state. . . (Emphasis added).

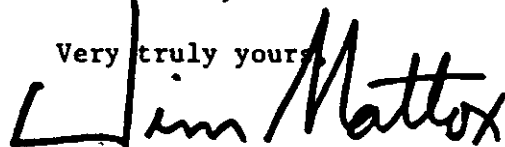
These provisions clearly establish that only the members of a governmental body -- in this instance, the commissioners court -- have

the right, when authorized by section 2 of the Open Meetings Act, to convene in executive session. The fact that the county clerk is ex officio clerk of the commissioners court does not make her a member of that court. Article V, section 18 of the Texas Constitution provides in relevant part that "[t]he County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court. . . ." Article 2342, V.T.C.S., contains virtually the same language. We therefore answer your question in the affirmative.

S U M M A R Y

The commissioners court of Frio County may exclude the county clerk from executive sessions of the court held under article 6252-17, V.T.C.S.

Very truly yours,



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