



**THE ATTORNEY GENERAL
OF TEXAS**

March 9, 1988

**JIM MATTOX
ATTORNEY GENERAL**

Honorable Gary Garrison
Ector County Attorney
Room 223, Courthouse
Odessa, Texas 79761

Opinion No. JM-871

Re: Whether the Ector County
Commissioners Court may meet in
the new county administration
building (RQ-1250)

Dear Mr. Garrison:

You state that Ector County has purchased a building in Odessa, the county seat of Ector County, to serve as an administration building for county agencies. The new building includes facilities for meetings of the Ector County Commissioners Court, and it is expected that the commissioners court will meet there. The administration building is six blocks from the courthouse.

You ask the following question:

Can the commissioners court meet in regular and special term in the Ector County Courthouse Administration Building?

Section 81.005 of the Local Government Code provides as follows:

(a) The commissioners court shall convene in a regular term on the second Monday of each month, except that if the completion of the court's business does not require a monthly term, the court need not hold more than one term a quarter. A regular term may continue for one week but may be adjourned earlier if the court's business is completed.

(b) The county judge or three county commissioners may call a special term of the court. A special term may continue until the court's business is completed.

(c) The term shall be held at the county seat at the courthouse.

(d) Any business of the commissioners court that is required by law to be conducted at a regular term may also be conducted at any meeting of the court held on a day on which the court routinely and periodically meets, regardless of whether the periodic interval is weekly, monthly, quarterly, annually, or some other interval. (Emphasis added.)

This section recodified former article 2348, V.T.C.S., which provided as follows:

Sec. 1. The regular terms of the commissioners court shall be commenced and be held at the court house on the second Monday of each month throughout the year and may continue in session one week; provided the court need not hold more than one session each quarter if the business of the court does not demand a session. Any session may adjourn at any time the business of the court is disposed of. Special terms may be called by the county judge or three of the commissioners, and may continue in session until the business is completed.

Sec. 2. Any business of the commissioners court that is required by law to be conducted at a regular term may also be conducted at any meeting of the court held on a day on which the court routinely and periodically meets, regardless of whether the periodic interval is weekly, monthly, quarterly, annually, or some other interval. (Emphasis added.)

Acts 1876, 15th Leg., ch. 55, §13, at 53; amended by Acts 1911, 32d Leg., ch. 98, §1, at 198 and Acts 1985, 69th Leg., ch. 428, §1, at 1555.

Section 81.005(c) of the Local Government Code states that the term of the commissioners court "shall be held at the county seat at the courthouse." The language is clear and unambiguous, and requires the Ector County Commissioners Court to meet in the courthouse.

Section 292.004 of the Local Government Code authorizes the commissioners court to provide facilities such as

(a) . . . an auxiliary courthouse, a jail, a parking garage, a facility for district, county, and precinct administrative and judicial offices and courtrooms, or any facility related to the administration of civil or criminal justice. For the purposes of this section, the municipality designated as the county seat includes territory added to the municipality after it became the county seat but excludes any part of the municipality outside the county.

. . . .

(c) If the commissioners court designates the facility as an auxiliary courthouse, the facility may not replace the courthouse at the county seat.

(d) A court required by law to hold its terms at the county seat, except the commissioners court, may hold its terms at a court facility provided under this section.
(Emphasis added.)

Local Gov't Code §292.004(a), (c), (d). Subsection (d) bars the commissioners court from meeting at a new court facility provided under section 292.004 of the Local Government Code and is thus consistent with the requirement in section 81.005(c) that the commissioners court shall meet at the courthouse.

Section 292.021 of the Local Government Code allows counties which meet certain criteria to acquire a building to house county offices and provides that

[t]he building may contain an auditorium, which may be used by the commissioners court. . . .

Local Gov't Code §292.021(b).

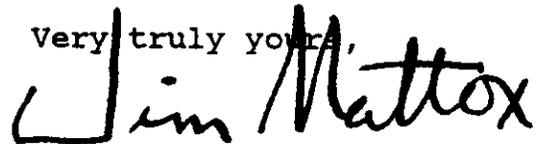
Moreover, the county has authority to build a new courthouse on a site within the boundaries of the county seat that existed when the city was designated county

seat. Lamar County v. Clements, 49 Tex. 347 (Tex. 1878);
Cosby v. County Commissioners of Randall County, 712
S.W.2d 246 (Tex. App. - Amarillo 1986, writ ref'd n.r.e.).
See generally Gov't Code §442.008 (notice to Texas
Historical Commission by county required before county may
demolish, sell, or lease county courthouse).

S U M M A R Y

Section 81.005(c) of the Local Government
Code requires the Ector County Commissioners
Court to hold its meetings in the county
courthouse.

Very truly yours,



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