September 24, 1999

Ms. Alice L. Chapman  
Uvalde County Auditor  
Courthouse Plaza #4  
100 North Getty Street  
Uvalde, Texas 78801  

Opinion No. JC-0116  
Re: Whether a commissioners court must vote unanimously to close a public road that is not a through street (RQ-0059)

Dear Ms. Chapman:

You ask whether the closure of a public road which, in this instance, is a cul-de-sac rather than a through street, requires a unanimous vote of the commissioners court. It does.

As you correctly note, section 251.051 of the Transportation Code reads in pertinent part:

(b) A unanimous vote of the commissioners court is required to:

(1) close, abandon, or vacate a public road;


Nothing in the statutory language here distinguishes a cul-de-sac from a through road. Nor is such a distinction to be found in section 251.002 of the Transportation Code, the definition of public roads: “A public road or highway that has been laid out and established according to law and that has not been discontinued is a public road.” Id. § 251.002. See Decker v. Menard County, 25 S.W. 727, 728 (Tex. Civ. App.-1894, no writ) (cul-de-sac may be public road).

We note that this office, in Attorney General Opinion H-166 (1973) held that the statutory predecessor of section 251.051 did not require a unanimous vote of the commissioners court to close a road, on the ground that “discontinuance” was distinguishable from change or alteration. Whatever force Opinion H-166’s argument may have had when the opinion was issued has been vitiated by the explicit language of section 251.051 with respect to road closing, and accordingly Attorney General Opinion H-166 has been overruled by operation of law.

Accordingly, if the cul-de-sac in question is a public road within the meaning of section 251.002, then the plain language of section 251.051(b)(1) requires a unanimous vote of the
commissioners court for its closing. Whether that be the case is, of course, a question of fact about which we do not opine.

**SUMMARY**

The closing of a public road, whether a cul-de-sac or a through street, requires a unanimous vote of the commissioners court. Attorney General Opinion H-166 (1973) is overruled.

Yours very truly,

JOHN CORNYN  
Attorney General of Texas

ANDY TAYLOR  
First Assistant Attorney General

CLARK KENT ERVIN  
Deputy Attorney General - General Counsel

ELIZABETH ROBINSON  
Chair, Opinion Committee

James E. Tourtelott  
Assistant Attorney General - Opinion Committee