

**Fire Department, Property Of. Real Estate, Conveyance By
Unincorporated Fire Department.**

There is no provisions of the statute specifically stating how an unincorporated fire department may convey real estate. Method suggested is that foreman and secretary make conveyance on authority of resolution unanimously adopted by the department, deed to be ratified by the county commissioners before taking effect.

Helena, Montana, May 6, 1908.

Hon. D. M. Kelly,
County Attorney,
Boulder, Montana.

Dear Sir:—

I am in receipt of your letter of the 29th ult., submitting the following statement and proposition:

“The Basin fire department of Basin (unincorporated) are desirous of transferring a lot in Basin which stands in the name of the ‘Basin Fire Department,’ who, if any one, can sign the deed for the fire department and transfer the title?”

Sections 3230 to 3237, Political Code, which deals with the subject of fire departments, are wholly silent as to the acquisition or disposition of real estate in connection with fire companies in unincorporated towns. The county commissioners, however, are given some authority, though this is not strictly county property, and it is probable that the county board should be consulted and give its sanction to any transfer. Sections 3232 to 3235 provide in what manner a fire company in an unincorporated town may organize, and while the statute is silent relative to the transfer of title to real estate, yet there must be some way by which a fire company can handle its property, and that suggests the following procedure:

That the fire company, at a meeting duly called, at which, if possible, every member should be present, by unanimous vote, authorize the sale of this property at a fixed price, or authorize its exchange for other property, describing such other property; and also authorizing the foreman and secretary of the department, under seal of the department, to execute a deed, the deed when so executed to take effect only upon the sale being endorsed, ratified, confirmed and sanctioned by the board of county commissioners. The deed so executed should contain these recitals and then the board of county commissioners can spread upon their minutes their endorsement, ratification, confirmation, and sanction of the sale, authorizing the clerk, under seal of the county, to endorse same upon the deed. We know of no other way this can be done, for as above stated this property now stands in the record in the name of the Basin fire department, is not strictly county property, and would hardly come within the meaning of Subdivision 10, Section 4230 of the Political Code.

We have also received inquiries from others there as to whether the fire department can incur an indebtedness for which the town or the county will be held responsible.

The answer to this question must be in the negative. If, however, the department desires to make improvements, and someone will advance the money to the department, and the department afterwards by taxation or otherwise receive money in its general treasury which should be devoted to such improvements, the improvements could be paid for as though they were made at the date when the warrant is drawn.

Very truly yours,

ALBERT J. GALEN,
Attorney General.