

**Paving—County Commissioners—Agreements—Special
Improvements—County Property.**

In the absence of any express statutory authority the county commissioners have no authority to enter into an agreement to pay for paving in front of county property.

October 18, 1927.

Edward M. Tucker, Esq.,
County Attorney,
Hamilton, Montana.

My dear Mr. Tucker:

You have requested my opinion on the following question:

“May the county commissioners legally pay for paving in front of lots to which a county has acquired tax title by merely agreeing, along with the rest of the abutting property owners, to pay for the same where no improvement district has been created and no levy made against the lots for the payment of such improvements?”

There is no provision of our statutes which would authorize the commissioners to enter into an agreement with other abutting property

owners to pay for paving in front of lots owned by the county, and the rule laid down by our supreme court is as follows:

“A Board of County Commissioners is one of limited powers and must in every instance justify its action by reference to the provisions of law defining and limiting these powers.”
(State ex rel. Lambert v. Coad, 23 Montana, 131.)

It is therefore my opinion that in the absence of any express statutory authority the county commissioners have no authority to enter into an agreement to pay for paving in front of county property.

Very truly yours,

L. A. FOOT,

Attorney General.