

FSB Community Bankshares Inc
Form 10-K/A
April 13, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K/A

- ☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the Fiscal Year Ended December 31, 2008
- OR
- ☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____

Commission File Number: 001- 52751

FSB Community Bankshares, Inc.
(Exact Name of Registrant as Specified in its Charter)

United States
(State or Other Jurisdiction of Incorporation or
Organization)

74-3164710
(I.R.S. Employer Identification No.)

45 South Main Street, Fairport, New York
(Address of Principal Executive Offices)

14450
(Zip Code)

(585) 223-9080
(Issuer's Telephone Number including area code)

Securities Registered Pursuant to Section 12(b) of the Act:
None

Title of Class	Name of Each Exchange On Which Registered
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Securities Registered Pursuant to Section 12(g) of the Act:

Common Stock, par value \$0.10 per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
YES ☐ NO ☒.

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Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act.

YES ☐ NO ☒.

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file reports), and (2) has been subject to such requirements for the past 90 days.

(1) YES ☒ NO ☐

(2) YES ☒ NO ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☒

(Do not check if smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

YES ☐ NO ☒

As of June 30, 2008 the aggregate market value of the voting and non-voting common stock held by non-affiliates of the registrant, computed by reference to the closing price of the common stock as of June 30, 2008 was \$6.8 million.

As of March 27, 2009, there were 1,785,000 shares of the Registrant's common stock, par value \$0.10 per share, outstanding, of which 946,050 shares, or 53%, were held by FSB Community Bankshares, MHC, the Registrant's mutual holding company parent.

DOCUMENTS INCORPORATED BY REFERENCE

1. Proxy Statement for the 2009 Annual Meeting of Stockholders (Parts II and III).
2. Annual Report to Shareholders for the year ended December 31, 2008 (Part II).

EXPLANATORY NOTE

This Amendment No.1 filed on Form-10K/A is being filed to include Exhibit 16, the Change in Auditor's Letter, which was inadvertently omitted from the Registrant's Form 10-K filed with the SEC on March 31, 2009.

ITEM 15. EXHIBITS

The following exhibits are either filed or attached as part of this report or are incorporated herein by reference:

- 3.1 Charter of FSB Community Bankshares, Inc. (1)
 - 3.2 Bylaws of FSB Community Bankshares, Inc. (1)
 - 4 Form of common stock certificate of FSB Community Bankshares, Inc. (1)
 - 10.1 Amended and Restated Employment Agreement of Dana C. Gavenda (2)
 - 10.2 Supplemental Executive Retirement Plan (1)
 - 10.3 Employee Stock Ownership Plan (1)
 - 13 Portions of Annual Report to Shareholders
 - 14 Code of Ethics (3)
 - 16 Change in Auditors Letter
 - 21 Subsidiaries of the Registrant
 - 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
 - 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
 - 32 Certification of Chief Executive Officer and Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
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- (1) Incorporated by reference to the Registration Statement on Form SB-2 of FSB Community Bankshares, Inc. (File No. 333-141380), originally filed with the Securities and Exchange Commission on March 16, 2007.
 - (2) Incorporated by reference to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on September 25, 2008.
 - (3) Available on our website at www.fairportsavingsbank.com.

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Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

FSB Community
Bankshares, Inc.

Date: April 13, 2009

By: /s/ Dana C. Gavenda
Dana C. Gavenda,
President and
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

By: /s/ Dana C. Gavenda
Dana C. Gavenda, President, and Chief
Executive Officer

(Principal Executive
Officer)

By: /s/ Thomas J. Hanss
Thomas J. Hanss
Chairman of the
Board

Date: April 13, 2009

Date: April 13, 2009

By: /s/ Kevin D. Maroney
Kevin D. Maroney, Executive Vice President
and Chief Financial
Officer
(Principal Financial and Accounting Officer)

By: /s/ Gary Lindsay
Gary Lindsay
Director

Date: April 13, 2009

Date: April 13, 2009

By: /s/ Terence O'Neil
Terence O'Neil
Vice Chairman of the
Board

By: /s/ Alicia H. Pender
Alicia H. Pender
Director

Date: April 13, 2009

Date: April 13, 2009

By: /s/ James E. Smith

By:

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James E. Smith
Director

/ s / L o w e l l T .
Twitchell
Lowell T. Twitchell
Director

Date: April 13, 2009

Date: April 13, 2009

By: /s/ Robert W. Sturn
Robert W. Sturn
Director

By: /s/ Charis W. Warshof
Charis W. Warshof
Director

Date: April 13, 2009

Date: April 13, 2009