



*Special
Board Meeting*

Board Room

August 7, 2024



Fruitport Community Schools
SPECIAL BOARD MEETING
Wednesday, August 7, 2024 – 6:00 p.m.

Location:

Fruitport Community Schools Central Office
Board of Education Meeting Room
3255 E. Pontaluna Rd.
Fruitport, MI 49415

AGENDA

- I. CALL to ORDER**
- II. ROLL CALL**
- III. APPROVAL OF AGENDA**
- IV. REMARKS FROM THE PUBLIC***
- V. GENERAL BOARD BUSINESS**
 - A. Special Meeting Minutes - July 22, 2024
 - B. Approval of Operating Millage Ballot Proposition Resolution
 - C. Other
- VI. ADJOURNMENT**

*Time is provided for members of the audience to address the Board of Education regarding any topic including items on the agenda. The board is providing one opportunity for the public to comment during the meeting. Members of the audience may wish to bring issues to the Board of Education for board consideration. Time limits may be placed if a large number of individuals would like to address the board.

BOARD ACTION REQUEST FORM

Meeting Date: August 7, 2024

To: Board of Education

Attachments #A

From: Jason Kennedy

Subject to be Discussed and Policy Reference:

- Approval of Special Meeting Minutes from July 22, 2024

Background Information:

See attached

Financial Impact:

See attached

Recommended Action:

To approve the Special Meeting Minutes from July 22, 2024, as presented.

Action Taken:

Vote: ___ Buckner ___ Burgess ___ Cole ___ Franklin ___ Hazekamp
 ___ Kelly ___ Meeuwenberg



Fruitport Community Schools
SPECIAL BOARD MEETING
Monday, July 22, 2024 – 6:00 p.m.

Location:

Fruitport Community Schools Central Office
Board of Education Meeting Room
3255 E. Pontaluna Rd.
Fruitport, MI 49415

MINUTES

I. CALL to ORDER

The Special Meeting of the Board of Education was called to order at 6:00 p.m. by Board President, Dave Hazekamp.

II. ROLL CALL

Present – Elroy Buckner, Kris Cole, Dave Hazekamp, JB Meeuwenberg. Absent - Tim Burgess, Susan Franklin, Steve Kelly.

Vice President Kris Cole was appointed by the Board President to serve as the Acting Secretary for the Special Meeting on July 22, 2024, in the absence of the Secretary, per Board of Education policy.

III. APPROVAL OF AGENDA

Item 24-124. MOTION by Buckner, SECOND by Meeuwenberg to approve the agenda, as presented.

MOTION CARRIED: 4-0; 3 absent.

IV. REMARKS FROM THE PUBLIC: None

V. GENERAL BOARD BUSINESS

A. Regular Meeting Minutes - July 15, 2024

Item 24-125. MOTION by Buckner, SECOND by Cole to approve the Regular Meeting Minutes of July 15, 2024, as presented.

MOTION CARRIED: 4-0; 3 absent.

B. Tentative Agreement with the Fruitport Education Association (FEA)

Item 24-126. MOTION by Buckner, SECOND by Cole to ratify and approve the tentative master collective bargaining agreement between the Board of Education and the Fruitport Education Association (FEA), as presented and discussed.

MOTION CARRIED: 4-0; 3 absent.

C. Other: None

VI. ADJOURNMENT

Item 24-127. MOTION by Buckner, SECOND by Cole to adjourn.

MOTION CARRIED: 4-0; 3 absent.

The meeting adjourned at 6:36 p.m.

Respectfully submitted,

Kris Cole, Acting Board Secretary

Jason Kennedy, Acting Recording Board Secretary

BOARD ACTION REQUEST FORM

Meeting Date: August 7, 2024

To: Board of Education

Attachments: #B

From: Jason Kennedy

Subject to be Discussed and Policy Reference:

- Approval of Operating Millage Proposed Ballot Language

Background Information:

Please see the attached operating millage ballot proposal for language that would appear on the November 5, 2024 General Election, if approved. This proposal will allow the school district to continue to levy the statutory rate of not to exceed 18 mills on all property, except principal residence and other property exempted by law, required for the school district to receive its full revenue per pupil foundation allowance and restores millage lost as a result of the reduction required by the Michigan Constitution of 1963.

Financial Impact:

All Michigan school districts must levy 18 mills on non-homestead property to receive their full foundation allowance, the major source of funding for Michigan schools. If approved, the proposal would allow the school district to continue to levy the statutory rate of 18 mills on non-homestead property, in order for the school district to receive its full revenue per-pupil foundation allowance and restore millage lost as a result of the Headlee Amendment.

Recommended Action:

To approve the operating millage ballot proposition resolution, as discussed and presented. **Roll Call Vote**

Action Taken:

Vote: ___ Buckner ___ Burgess ___ Cole ___ Franklin ___ Hazekamp
 ___ Kelly ___ Meeuwenberg



U.S. MAIL ADDRESS
P.O. Box 2575, EAST LANSING, MI 48826-2575
PHONE: (517) 484-8000 FAX: (517) 484-0041

ALL OTHER SHIPPING
2900 WEST ROAD, SUITE 400
EAST LANSING, MI 48823-6386

JEFFREY J. SOLES
ROY H. HENLEY
MICHAEL D. GRESENS
CHRISTOPHER J. IAMARINO
RAYMOND M. DAVIS
MICHELE R. EADDY

KIRK C. HERALD
ROBERT A. DIETZEL
KATHERINE WOLF BROADDUS
DANIEL R. MARTIN
JENNIFER K. STARLIN
TIMOTHY T. GARDNER, JR.

IAN F. KOFFLER
FREDRIC G. HEIDEMANN
RYAN J. NICHOLSON
CRISTINA T. PATZELT
PHILIP G. CLARK
PIOTR M. MATUSIAK

JESSICA E. MCNAMARA
RYAN J. MURRAY
ERIN H. WALZ
MACKENZIE D. FLYNN
KATHRYN R. CHURCH
MARYJO D. BANASIK

CATHLEEN M. DOOLEY
AUSTIN M. DELANO
KELLY S. BOWMAN

GORDON W. VANWIEREN, JR. (OF COUNSEL)
LISA L. SWEM (OF COUNSEL)

IAN F. KOFFLER
(517) 374-8865
ikoffler@thrunlaw.com

August 6, 2024

Via Email and U.S. Mail

Mr. Jason Kennedy
Superintendent
Fruitport Community Schools
3255 East Pontaluna Road
Fruitport, Michigan 49415-9600

Re: Regular School Election on Tuesday, November 5, 2024

Dear Mr. Kennedy:

Enclosed are the following:

1. Four copies of a resolution relative to calling your regular school election to be adopted by your Board at a regular or properly called special meeting. **Before adopting the resolution, the name of the newspaper of general circulation in the District the Board prefers for publication of notices must be inserted in Paragraph 3a.** Upon adoption, have all copies completed and provide one copy to the election coordinator and one copy to your election clerk or clerks, if designated by the county clerk, retain one copy with the minutes of your Board meeting and return the remaining copy to me. If one or more board members will participate in the board meeting virtually due to military service, please contact me.

READ THE BALLOT PROPOSITION LANGUAGE CAREFULLY BEFORE THE BOARD ADOPTS THE RESOLUTION TO ENSURE THE LANGUAGE IS CORRECT. *Please do not re-type the ballot language in the resolution or remove any of the exhibits from the resolution.* The deadline for certification of the ballot to the election coordinator and election clerk(s) is **Tuesday, August 13, 2024, before 4:00 p.m.**

Public notice of a special board meeting or a rescheduled regular board meeting must be *posted at least 18 hours before that meeting and, if your district includes monthly or more frequent board agenda and/or minutes updates on its website, posted on the home page of the district's website.* See the enclosed information entitled "Special or Rescheduled Regular Board Meetings" for forms. When returning the resolution copies, please furnish me with: (A) a signed copy of the written call for the special or rescheduled regular meeting; (B) an affidavit as to method of service used; (C) a copy of the public notice as posted; (D) an affidavit regarding the physical posting of



Mr. Jason Kennedy
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the public notice; and (E) an affidavit regarding posting of the public notice on the district's website.

2. A form of Certification which, along with a copy of the adopted resolution, must be filed with the District's election coordinator and election clerk(s), if designated, by personal delivery, facsimile or other type of delivery utilizing a tracking system (i.e., express, FedEx, UPS, etc.) **for receipt on or before 4:00 p.m. on Tuesday, August 13, 2024.** The purpose of the Certification of Ballot Proposition form is to provide the District with documentation that the certified copy of the ballot language was forwarded to the election coordinator and election clerk(s) before the applicable election law deadline. **FAILURE TO FILE THE RESOLUTION AND CERTIFICATION ON A TIMELY BASIS WILL JEOPARDIZE THE DISTRICT'S ABILITY TO PLACE A PROPOSITION ON THE BALLOT FOR THE ELECTION ON TUESDAY, NOVEMBER 5, 2024.** Be sure to verify the hours of operation for the offices of the election coordinator and election clerk(s) to ensure timely delivery.

Please return a copy of the resolution and the signed Certification to this office for our file.

3. A copy of a detailed document addressing campaign financing requirements, particularly with respect to a governmental entity's compliance with the requirements of the Campaign Finance Act.

Under Section 57 of the Campaign Finance Act, a public entity may not use public dollars for advocacy in relation to a ballot question. As such, a public entity may not spend public dollars or use public resources/assets (including staff time) on communications that urge a "yes" vote on that question. Should you have any questions regarding the attached or if you would like to schedule a conference call to discuss the implications of Section 57 on your particular election, please contact me.

Further, please forward to me any materials to be issued for the informational campaigning for review prior to distribution.

Posting Notices

While the election law does not require registration and election notices to be posted, it is our recommendation that because a millage proposition will be presented at this election, notices be posted as a safeguard against an error in or a failure of publication.

Proof Ballots

It is essential that a proof copy of the ballot language be obtained prior to publication of the ballots. When the proof copy is received, please immediately forward a copy to me for review. If you do not receive a ballot proof by Friday, September 6, 2024, please contact me immediately. As the election clerks know, ballots must be available to be sent to voters serving in the military



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August 6, 2024
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or living overseas for absentee voting not later than Saturday, September 21, 2024 and generally available on or before Thursday, September 26, 2024.

Note: Since I am the attorney in this office who will be advising the District regarding the regular election, please refer all questions concerning the election to me.

Very truly yours,

THRUN LAW FIRM, P.C.

By 

Ian F. Koffler

IFK/keh

Enclosures

cc: Mark Mesbergen, Director of Business Services (*via email only*)

**INFORMATION TO BE PROVIDED TO
ELECTION COORDINATOR AND ELECTION CLERK(S)**

1. The number of regular four year or six year terms to be filled at the regular school election.
2. The number, if any, of unexpired terms to be filled at the regular school election.
3. If the District changed its name since the last regular election, a copy of the resolution changing the legal name of the District. Please also provide a copy of the resolution to this office if you have not already done so. Our records state the District's legal name is as follows: "**Fruitport Community Schools, Muskegon and Ottawa Counties, Michigan**".
4. The resolution approved by the Board, with the proposition language and summary of the ballot proposition attached. A Certification of Ballot Proposition form has been enclosed for your use. *Do not re-type the ballot language provided by this office and do not remove the exhibits attached to the resolution.*

SPECIAL OR RESCHEDULED REGULAR MEETINGS

If the enclosed resolution is to be adopted at a special meeting or a rescheduled regular meeting, (1) notice of the meeting must be posted at least 18 hours prior to the meeting; (2) notice must be provided to the individual board members; and (3) if the district maintains an official website on which it updates board agendas and/or minutes on at least a monthly basis, notice of the meeting must be posted on the homepage of the district's website, or on a separate web page dedicated to public notices for non-regular meetings, with a conspicuous link on the homepage. Please refer to the attached information on "Board Meetings" for forms to be used in giving both public notice of the meeting and notice to board members. Please furnish us with:

- a. A signed copy of the written call for the special or rescheduled regular meeting;
- b. An affidavit as to method of service used;
- c. A copy of the public notice as posted;
- d. An affidavit relative to the posting of public notice;
- e. A print screen copy of the public notice as available on the district's website; and
- f. An affidavit relative to the posting of public notice on the district's website.

Thank you.

NOTE: POSTING NOTICE OF MEETING

The resolution or bylaws pertaining to board meetings should designate the individual who will be responsible for causing notice to be given to the public of all board meetings. A statement in the resolution or bylaws as follows would be sufficient:

"The secretary of the board of education shall cause public notice to be given of all meetings of the board of education in accordance with the Michigan Open Meetings Act."

Based upon this action, all public notices of board meetings would be given under the name of the secretary of the board of education. The secretary of the board of education could then, by letter, delegate to the administrative staff the authority to handle the actual posting of the notices in accordance with the provisions of the Open Meetings Act.

SPECIAL MEETINGS AND RESCHEDULED REGULAR MEETINGS

NOTICE TO BOARD MEMBERS:

General powers school districts shall adopt bylaws. Special meetings may be called and held in the manner and for the purposes specified in the bylaws. Service of notice on board members may be made by a member of the board or an employee of the board.

NOTICE TO THE PUBLIC:

Public notice of a special meeting or a rescheduled regular meeting shall contain the name of the district and the address and telephone number, if any, of the principal office of the district, and the date, time, and place of the meeting.

Public notice shall be posted at the principal office of the board, usually the office of the superintendent, and at other locations considered appropriate by the board at least 18 hours before the meeting. Further, if the district maintains an official website on which it updates its board agendas and/or minutes on at least a monthly basis, notice of the special or rescheduled regular meeting must be posted on the homepage of the district's website, or on a separate web page dedicated to public notices for non-regular meetings, with a conspicuous link on the homepage.

Notice of a changed schedule for regular meetings for the remainder of the year must be posted within 3 days after the meeting at which the change was made.

BOARD MEETINGS

Actions may be taken and decisions may be made by the board acting only at a regular or special meeting of the board if a majority of the members of the board is present and proper notice of the meeting has been given to the board members and the public.

REGULAR MEETINGS

NOTICE TO BOARD MEMBERS:

The date, time, and place of each regular meeting for the year is fixed by board action and recorded in the minutes. The regular meeting motion must be adopted at a legal meeting, usually the organizational meeting. This serves as proper notice to board members of each regular meeting.

Regular meetings shall be held at least once each month or at other times as the board may provide in the bylaws or resolution setting the regular meeting schedule. The board may hold more than one regular meeting each month. Section 11a(6), School Code of 1976, as amended.

NOTICE TO THE PUBLIC:

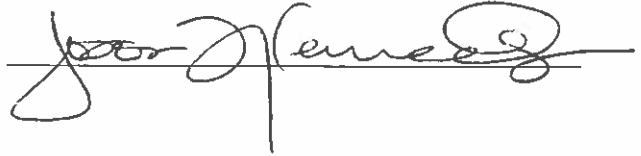
Notice of the dates, times, and places of scheduled regular board meetings for the year shall be posted at the principal office of the board within 10 days after the first meeting in each calendar or fiscal year. Notice to the public also shall contain the name of the district, the address, and the telephone number of the principal office of the board.

In addition to posting notice, we recommend publishing the notice in a newspaper of general circulation in the district at least 3 days before the first regular meeting.

Affidavit of Service of Call for School Board Meeting

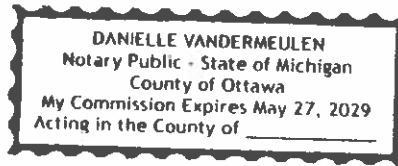
STATE OF MICHIGAN)
COUNTY OF MUSKEGON)ss

The undersigned, Jason Kennedy, being first duly sworn, deposes and says that s/he did serve a written notice of a call of a special meeting of the Board of Education of Fruitport Community Schools, Muskegon and Ottawa Counties, Michigan, to be held on the 7th day of August, 2024, on Members Dave Hazekamp, Kris Cole, Elroy Buckner, Susan Franklin, Tim Burgess, Steve Kelly, JB Meeuwenberg by email, a true copy of which is attached hereto.



Subscribed and sworn to before me this
6 day of August, 2024.

Danielle Vandermeulen
Notary Public in and for the County of
Ottawa, State of Michigan
Acting in the County of Muskegon



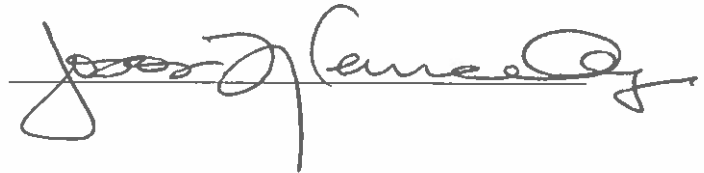
My Commission expires May 27, 20 29

- * Insert name of superintendent, board member, or employee of board.
- ** Here state the names of each board member served by the same method. If different methods of service are used for some members, then separate affidavits must be completed to indicate the names of the board members served by one method and the names of members served by another method.
- *** Here state in full the actual method used in serving the written call of the special meeting (e.g., personal service, delivery at board member's residence, U.S. Mail, email, etc). We recommend serving board members the call at least 24 hours in advance of the meeting, if by personal service or email, or 72 hours in advance of the meeting if by U.S. Mail.

CALL FOR SCHOOL BOARD MEETING

To Dave Hazekamp, Kris Cole, Elroy Buckner, Susan Franklin, Tim Burgess, Steve Kelly and JB Meeuwenberg; Member of the Board of Education of Fruitport Community Schools, Muskegon and Ottawa Counties, Michigan:

Please Take Notice that a special meeting of the Board of Education will be held in the Central Office Boardroom, in the District, on the 7th day of August, 2024, at 6:00 o'clock, p.m.



Jason J. Kennedy

Superintendent



(Must be signed by the authorized person(s) calling the meeting)

**AFFIDAVIT OF POSTING
PUBLIC NOTICE OF SPECIAL MEETING
OF THE BOARD OF EDUCATION**

STATE OF MICHIGAN)
COUNTY OF MUSKEGON)ss

The undersigned, being first duly sworn, deposes and says that he/she did post a public notice of a special meeting of the Board of Education of Fruitport Community Schools, Muskegon and Ottawa Counties, Michigan, to be held on:

Date of Meeting: August 7, 2024
Hour of Meeting 6:00 o'clock, p.m.
Place of Posting Notice: Principal Office of the Board of Education

at least eighteen (18) hours prior to the special meeting, a true copy of which notice is attached hereto.



Subscribed and sworn to before me this
6 day of August, 2024.

Danielle VanderMeulen
Notary Public in and for the County of
Ottawa, State of Michigan
Acting in the County of Muskegon
My Commission expires May 27, 2029



NOTICE OF SPECIAL SCHOOL BOARD MEETING

PLEASE TAKE NOTICE THAT THERE WILL BE A SPECIAL MEETING OF THE BOARD OF EDUCATION OF FRUITPORT COMMUNITY SCHOOLS, MUSKEGON AND OTTAWA COUNTIES, MICHIGAN;

DATE OF MEETING: August 7, 2024

PLACE OF MEETING: Central Office Boardroom / Principal Office of the Board
3255 E. Pontaluna Rd. Fruitport, MI 49415

HOUR OF MEETING: 6:00 o'clock, p.m.

TELEPHONE NUMBER OF
PRINCIPAL OFFICE OF THE
BOARD OF EDUCATION: (231) 865-3154

BOARD MINUTES ARE
LOCATED AT THE PRINCIPAL
OFFICE OF THE BOARD OF
EDUCATION 3255 E. Pontaluna Rd. Fruitport, MI 49415

Susan Franklin
Secretary, Board of Education

**AFFIDAVIT OF INTERNET WEBSITE POSTING OF
PUBLIC NOTICE OF SPECIAL MEETING
OF THE BOARD OF EDUCATION**

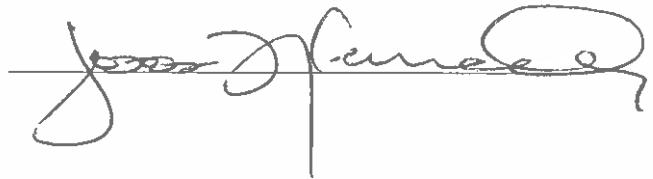
STATE OF MICHIGAN)
COUNTY OF MUSKEGON)ss

The undersigned, being first duly sworn, deposes and says that he/she did verify that on the website homepage of the district was posted a public notice of a special meeting of the Board of Education of Fruitport Community Schools, Muskegon and Ottawa Counties, Michigan, to be held on:

Date of Meeting: August 7, 2024

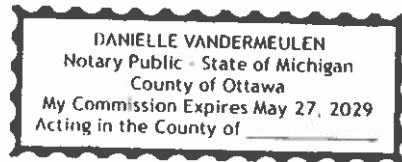
Hour of Meeting 6:00 o'clock, p.m.

at least eighteen (18) hours prior to the special meeting, a true copy of that website notice is hereto attached.



Subscribed and sworn to before me this
6 day of August, 2024.

Danielle Vandermeulen
Notary Public in and for the County of
Ottawa, State of Michigan
Acting in the County of Muskegon
My Commission expires May 27, 2029





Fruitport Community Schools
Board of Education Office
3255 E. Pontaluna Road
Phone: (231) 865-4100
Fax: (231) 865-3393
www.fruitportschools.net

CERTIFICATION OF BALLOT PROPOSITION

TO: Muskegon County Election Coordinator and Election Clerk

In compliance with Public Act 116, Public Acts of Michigan, 1954, as amended (the “Act”), attached is a certified copy of the ballot proposition language approved by the Board of Education of Fruitport Community Schools to be placed before the voters at the election to be held on Tuesday, November 5, 2024.

Pursuant to the Act, a summary of the ballot proposition and an address where the full text of the proposal may be obtained must be included in the registration and election notices. The notice language is included in Exhibit B of the attached resolution. Please contact us if you would like the ballot proposition and summary language in an unprotected Word format.

Kindly provide us with a proof copy of the ballot proposition language prior to printing the ballots.

Dated: _____

By: _____
Secretary, Board of Education

Fruitport Community Schools, Muskegon and Ottawa Counties, Michigan (the “District”)

A special meeting of the board of education of the District (the “Board”) was held in the Central Office Boardroom, within the boundaries of the District, on the 7th day of August, 2024, at 6:00 o’clock in the p.m. (the “Meeting”).

The Meeting was called to order by Dave Hazekamp, President.

Present: Members

Absent: Members

The following preamble and resolution were offered by Member _____ and supported by Member _____:

WHEREAS:

1. Pursuant to the Michigan Election Law, the District’s regular school election shall be held on the first Tuesday after the first Monday in November of even years.
2. It is necessary to conduct the District’s regular election on Tuesday, November 5, 2024, to fill one or more Board positions.
3. On or before 4:00 p.m. on Tuesday, August 13, 2024, the Board shall certify any ballot proposition to be submitted to the voters at such election to the election coordinator or coordinators designated to conduct elections within the District (the “Election Coordinator”).

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The regular school election of the school electors of the District be called and held on Tuesday, November 5, 2024.
2. The proposition to be voted on at the regular school election shall be stated on the ballots in substantially the form as set forth in Exhibit A.
3. The Election Coordinator is requested to:
 - a. Utilize MLIVE Media Group/ The Muskegon Chronicle, a newspaper published or of general circulation within the District, for publication of notices in accordance with the election law requirements.
 - b. Utilize ballot proposition summary information, as prepared by legal counsel, in the forms of the notices of last day of registration and election in substantially the form as set forth in Exhibit B attached hereto.
 - c. Provide a proof copy of the ballot to the District and its legal counsel in sufficient time to allow the ballot to be proofread prior to printing.
4. The Secretary of this Board is hereby authorized and directed to file a copy of this resolution with the Election Coordinator and with any Election Clerk or clerks designated to conduct elections within the District by 4:00 p.m., on Tuesday, August 13, 2024.

5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

Ayes: Members

Nays: Members

Resolution declared adopted.

Secretary, Board of Education

The undersigned duly qualified and acting Secretary of the Board of Education of Fruitport Community Schools, Muskegon and Ottawa Counties, Michigan, hereby certifies that the foregoing constitutes a true and complete copy of a resolution adopted by the Board at the Meeting, the original of which is part of the Board's minutes. The undersigned further certifies that notice of the Meeting was given to the public pursuant to the provisions of the Open Meetings Act (Act 267, Public Acts of Michigan, 1976, as amended).

Secretary, Board of Education

IFK/keh

EXHIBIT A

**FRUITPORT COMMUNITY SCHOOLS
OPERATING MILLAGE PROPOSAL**

This proposal will allow the school district to continue to levy the statutory rate of not to exceed 18 mills on all property, except principal residence and other property exempted by law, required for the school district to receive its full revenue per pupil foundation allowance and restores millage lost as a result of the reduction required by the Michigan Constitution of 1963.

Shall the currently authorized millage rate limitation on the amount of taxes which may be assessed against all property, except principal residence and other property exempted by law, in Fruitport Community Schools, Muskegon and Ottawa Counties, Michigan, be renewed by 17.9302 mills (\$17.9302 on each \$1,000 of taxable valuation) for a period of 4 years, 2025 to 2028, inclusive, and also be increased by .5000 mill (\$0.5000 on each \$1,000 of taxable valuation) for a period of 4 years, 2025 to 2028, inclusive, to provide funds for operating purposes; the estimate of the revenue the school district will collect if the millage is approved and 18 mills are levied in 2025 is approximately \$3,502,941.68 (this millage is to renew millage that will expire with the 2024 levy and to restore millage lost as a result of the reduction required by the “Headlee” amendment to the Michigan Constitution of 1963 and will be levied only to the extent necessary to restore that reduction)?

EXHIBIT B

**SUMMARY OF BALLOT PROPOSITION TO BE INSERTED IN THE
NOTICES OF LAST DAY OF REGISTRATION AND ELECTION:**

FRUITPORT COMMUNITY SCHOOLS
OPERATING MILLAGE PROPOSAL
EXEMPTING PRINCIPAL RESIDENCE
AND OTHER PROPERTY EXEMPTED BY LAW
17.9302 MILLS FOR 4 YEARS AND
.5000 MILL FOR 4 YEARS FOR
HEADLEE RESTORATION PURPOSES, IF NECESSARY

Full text of the ballot proposition may be obtained at the administrative offices of Fruitport Community Schools, 3255 East Pontaluna Road, Fruitport, Michigan 49415-9600, telephone: (231) 865-4100.

CAMPAIGN FINANCE ACT – FREQUENTLY ASKED QUESTIONS

Section 57 of the Michigan Campaign Finance Act, Public Act 388 of 1976, MCL 169.257, governs the activities of public bodies (e.g., school districts, public school academies, and intermediate school districts), elected or appointed public officials, and individuals acting for or employed by public bodies by limiting the ways in which public funds or public resources may be used to support or oppose a candidate or ballot question. Below are common questions concerning Section 57 and Michigan Election Law.

The answers are of a general nature. This information is not intended to provide legal advice or an opinion about specific matters, facts, or situations. Future legal developments may affect these topics. The reader is encouraged to contact legal counsel to discuss specific matters or issues as they arise.

GENERAL OVERVIEW

The Michigan Secretary of State's ("SOS") Compliance and Rules Division is responsible for the interpretation, application, and enforcement of Section 57. Investigations usually occur after a complaint is filed. Penalties may include a warning letter, substantial fines imposed on individuals or the public body, and/or misdemeanor charges.

1. SCHOOL DISTRICT ACTIVITIES/EXPENDITURE OF PUBLIC FUNDS

1.1. Are school districts authorized to spend public funds or use public resources to advocate passage or defeat of a proposition?

No. Section 57 expressly prohibits a public body or individual acting for a public body from using or authorizing the use of funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources that constitute a "contribution" or "expenditure" as defined by Michigan law or to provide volunteer personal services to support or oppose a candidate or ballot question.

1.2. What is a "contribution" or "expenditure" under Michigan Election Law?

"Contribution" means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, *made for the purpose of influencing* the nomination or election of a candidate, for the qualification, passage, or defeat of a ballot question, or for the qualification of a new political party.

"Expenditure" means a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question.

1.3. What are some examples of expenditures?

- A contribution of anything of ascertainable monetary value *for purposes of influencing* the qualification, passage, or defeat of a ballot question.
- Voter registration or get-out-the-vote activities unless the activity is non-partisan voter registration or non-partisan get-out-the-vote activities made by a 501(c)(3) organization or by the SOS or other registration officials.

1.4. What is meant by "for the purposes of influencing" the passage or defeat of a ballot question? Aren't all activities influential in some way?

Relying on the U.S. Supreme Court's interpretation of federal campaign finance laws, the SOS defines the term "influencing" by using an "express advocacy" standard. When applying the "express advocacy" test to communications produced with public funds or public resources, the SOS reviews the communication within the four corners and, in certain circumstances, will look behind the creation or production of the communication to determine if there has been a violation. The SOS has concluded that the following terms violate the express advocacy test:

- “Vote For” or “Vote Against”
- “Elect” or “Defeat”
- “Support the Continuation of”
- “Support” or “Oppose”
- “Vote Yes” or “Vote No”

1.5. What types of activities are permitted under Section 57?

Section 57(1)(a)-(f) outline *exceptions* to the general rule prohibiting public funds or public resources from being used to influence a ballot question or candidate. The SOS has interpreted these permitted activities as being limited in nature. Below are those exceptions.

- (a) The expression of views by an elected or appointed public official who has policy-making responsibilities.
- (b) The production or dissemination of factual information concerning issues relevant to the function of the public body.
- (c) The production or dissemination of debates, interviews, commentary, or information by a broadcasting station, newspaper, magazine, or other periodical or publication in the regular course of broadcasting or publication.
- (d) The use of a public facility owned or leased by, or on behalf of, a public body if any candidate or committee has an equal opportunity to use the public facility.
- (e) The use of a public facility owned or leased by, or on behalf of, a public body if that facility is primarily used as a family dwelling and is not used to conduct a fundraising event.
- (f) An elected or appointed public official or an employee of a public body who, when not acting for a public body but is on his or her own personal time, is expressing his or her personal views, is expending his or her own personal funds, or is providing his or her own personal volunteer services.

Additional information pertaining to permitted activities can be found under “**School Employee Activities**” and “**School District’s Relationship with Advocacy Committees**” below.

1.6. May the board adopt a resolution expressing its support for a ballot proposition and encourage its voters to vote “yes”?

Yes. A governing body may adopt a resolution supporting a proposition under Section 57(1)(a) above. However, the SOS determined that the governing body may only publicize that board action through the ordinary means that it publicizes other board actions, such as recording the action in its meeting minutes, posting the minutes on its website, or publishing copies of the meeting minutes *in its customary fashion*. Using public resources to distribute or publicize the resolution beyond its customary fashion of disseminating the resolution would result in a violation.

1.7. What about the Superintendent? He or she is an appointed public official. Is the Superintendent authorized to express his or her viewpoint during the school day and/or use public resources to disseminate that viewpoint?

This is a tricky issue, and the answer depends upon the specific circumstances. When a Superintendent is on his or her free time and not serving in any official capacity, the Superintendent may express any viewpoint about the proposition, so long as he or she does not use public resources to do so. However, when acting in an official capacity, the standard in Section 57 depends upon whether the Superintendent has policy-making responsibilities. Whether the Superintendent has such responsibilities depends upon the Superintendent’s job description, relevant board policies and practices, and day-to-day functions. The Superintendent may always, however, communicate factual information about a ballot question that is relevant to the district. Relying upon the SOS’s Interpretative Statement referenced above, we believe it is highly likely that the SOS would conclude that public resources may not be used to broadly disseminate the Superintendent’s viewpoint

regardless of whether the Superintendent is a true policy maker. Accordingly, when in doubt, we recommend that the Superintendent, when acting in his or her official capacity, convey compelling factual information and allow the elected board members to advocate for the proposition.

1.8. Is the school district authorized to use its general fund monies or other public resources to disseminate flyers or other publications to its community about an upcoming proposition?

Yes, but with limitations. The school district is authorized to use its resources to produce and disseminate *factual information* concerning issues *relevant to the function of the public body*. School districts should avoid language that could be construed as opinion or not factual in nature and should avoid any language that could be interpreted as “express advocacy.” Although the SOS has not issued an interpretative statement on this distinction, Thrun Law Firm recommends that material contain only factual information to stay within the clear parameters of this exemption to avoid a potential complaint.

Of course, information can be both compelling *and* factual. Examples of permitted, compelling factual statements follow:

Example 1: “Alexander Elementary School’s roof was last replaced in 1990. According to the school district’s architect, the structural integrity of the roof is failing and failure to replace the roof will continue to cause significant deterioration of the interior walls, windows, and fascia. Unless the roof is replaced, the building’s integrity will eventually fail. The proposed roof system has a useful life of 20+ years and will also result in projected energy savings.”

Example 2: “The current entryways to all of our school buildings lack any type of security access points or systems that provide physical security for our buildings. The proposed security system will cover the three “D’s” of physical security: Discern, Delay and Disrupt. Discern means... .”

Example 3: “The Board of Education’s academic goal is to implement one-to-one technology in the school district by July 1, 2024.” “One-to-one technology means... .” “Classroom and instructional technology will allow students to... .” “Current research regarding the types of future work skills necessary for today’s students require... .” “The technology in this bond issue will provide opportunities for students to develop those skills because... .”

1.9. May flyers and other information be sent home in students’ backpacks or distributed at school-sponsored events?

Yes, if the school district’s flyers contain only factual information. If the materials are from a third party other than the school district (i.e., “vote yes” committee or an individual), check board policy regarding distribution of literature at school or school-sponsored events to determine if a third party’s distribution of materials is compliant. If the policy is silent or ambiguous, contact legal counsel for advice.

1.10. We regularly publish a monthly newsletter to our community. May the newsletter include a column from the Superintendent or board president asking voters to support the proposition?

Again, this is a tricky issue which has not been addressed by the SOS in any recent Interpretative Statement. The exception in Section 57(1)(c) allows the production or dissemination of debates, interviews, commentary, or information by a periodical or publication in the regular course of broadcasting or publication. On its face, exception Section 57(1)(c) seems to apply; however, it is unclear how the SOS may rule if a complaint is filed given the SOS’s recent interpretation of Section 57(1)(a) prohibiting the use of public resources to widely disseminate a viewpoint. Until clear direction is given by the SOS, we recommend that a school district consider a column that does not expressly advocate support or contain a “vote yes” message but, instead, provides compelling factual information and encourages residents to vote.

1.11. Are there identification requirements for literature, brochures, or other materials that the school district produces and disseminates?

Yes, in certain circumstances. According to the SOS’s Ballot Question Manual, Appendix J, the phrase “paid for by” followed by the name, address and zip code must be included in certain materials listed below **if circulated within 60 days before a November even-year election or 30 days before a primary election in**

which the question appears on the ballot. Example: “Paid for by ABC Schools, 100 Learners Avenue, Small City, Michigan 50001.” The types of materials are:

- Radio, television, mass mailing (U.S. mail or facsimile of more than 500 pieces of identical or substantially similar communications within any 30-day period), or pre-recorded telephone messages
- Printed matter such as yard signs, brochures, billboards, posters, business cards, or stationery
- Paid advertisements – the advertisement must contain an identifier that is clear to the reader or listener and that includes this specific wording: “This advertisement was paid for by ABC Schools, 100 Learners Avenue, Small City, Michigan 50001”.

The Ballot Question Manual also provides other points to consider:

- Electronic media such as web sites, Facebook, Twitter, etc., are not specifically exempt from the identifier requirements.
- An individual is not subject to the identification requirement provision as it relates to printed matter only if the individual is acting independently and not acting as an agent for the school district or a “vote yes” or “vote no” organization.
- The identification or disclaimer on printed material must be in a place and in a print clearly visible to and readable by an observer.

1.12. We have a home basketball game the weekend before the election date. Is the school district allowed to have a booth at the game with factual information about the proposition and run by parent volunteers?

Yes. If a “vote yes” or “vote no” group requests a similar booth, the school district must review its board policies regarding distribution of political literature at school-sponsored events. We recommend that you seek legal counsel if the policy is unclear or requires discretionary judgment by the Superintendent. Any decision may inadvertently impact the school district’s ability in the future to have a limited open forum or closed forum at school.

1.13. I am a high school Government teacher. May I have the students debate the merits of the proposition in class as an academic exercise?

Yes, provided both sides of the issue are represented and the intent is not to disseminate the debate for purposes of advocating support for or opposition to the proposition. Otherwise, teachers may not involve students in any campaign activities for or against a proposition during a regularly scheduled school day or use the school district’s resources for campaign activities with students.

1.14. Our school district owns a radio and public television station that broadcasts news content and commentary on a regular basis. Is the station permitted to broadcast a debate about the merits of the proposition?

Yes. In our opinion, this activity falls squarely within exemption 1(c) of Section 57 and would pass muster with the SOS provided that the activity is in the regular course of broadcasting.

2. SCHOOL EMPLOYEE ACTIVITIES

2.1. As a school employee, may I participate in political activities outside of the school day? I would like to volunteer for a “vote yes” committee on my own free time.

Yes. Section 57(1)(f) provides that elected or appointed public officials and school employees may be involved in campaign activities for or against propositions provided that they are not acting for the public body but are on their own personal time, expressing their own views, expending their own personal funds, or providing their own personal volunteer services.¹ The SOS’s Ballot Question Manual, Appendix I states, in part:

¹ The Political Activities by Public Employees Act (Act 169 of 1976) also prohibits public employees from actively engaging in political activities on behalf of a candidate or issue in connection with partisan or nonpartisan elections during those hours when that person is being compensated for the performance of that person’s duties as a public employee.

The inclusion of Section 57 in the [Campaign Finance Act] does not restrict the constitutionally protected right to associate or to engage in political speech. It is intended to prevent those who control public resources from using those resources to influence the outcome of an election. It is up to the people and not public bodies to decide elections. This means that a public body is prohibited in participating in elections for State and Local Ballot Questions... . The prohibition includes, but is not limited to the use of personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies; provide volunteer personal services or other public resources... .

- A public body is prohibited from displaying political signs, brochures, pamphlets, etc., in any governmental building or government property.
- Public officeholders and other public bodies are prohibited from using their office email and phones for campaign purposes.

2.2. May I wear a button or t-shirt to school or a school-sponsored event (while on duty) that states “Vote Yes” or “Vote No”?

No. This would most likely be a violation of Section 57. However, you may wear a button or t-shirt that states “Vote on [insert Election Date here].”

2.3. We have end-of-school-year activities scheduled next week. May I provide informational literature prepared by the school district to parents during the conferences and remind parents of the election date?

Yes, provided that the materials are factual information only and not advocating a particular position on the proposition.

2.4. May I help with the school district’s factual information campaign during the school day?

Yes, provided that it does not conflict with your other identified job duties or spill over into express advocacy activities.

3. SCHOOL DISTRICT’S RELATIONSHIP WITH ADVOCACY COMMITTEES

3.1. We have a group of enthusiastic parents who want to form a “Support our Cherished Children or Be Shunned” committee to advocate a “yes” vote on the proposition. Is the school district authorized to provide administrative support to the committee?

If the committee will advocate support for the proposition, no school resources, personnel, or other administrative assistance may be given to the committee whatsoever. However, school employees (including administrators and board members) may volunteer on the committee outside of the school day when not serving in their official capacity, donate personal funds to the committee, or provide personal services to the committee. It is important to clearly delineate when employees are serving in their official capacity or when they are serving in their personal capacity. The committee should have no more access to public facilities than any other community group. These separate committees may also have reporting and other obligations under Michigan law.

3.2. Am I limited in my communications with members of a ballot question advocacy committee during the school day?

Campaign strategy and volunteer work for an advocacy committee may not occur while the individual is on duty during a normal work day. For example, a school employee should not communicate with a ballot question committee about campaign strategy, identify “yes” (or “no”) voters, draft advocacy committee literature, use the school district’s laptops, tablets, phone systems, or other public resources owned or purchased by the school district in support of, or opposition to, a ballot question. These types of activities should occur outside of the school day using one’s own property and communication devices.

3.3. As a Superintendent, I am responsible for responding to questions from the community. If a member of a “vote yes” committee contacts me seeking information about the bond issue, may I respond to the question?

Yes. The Superintendent may respond to questions from the community regarding information pertaining to a proposition regardless of the source of the question.

3.4. May a “vote yes” or “vote no” committee use our facilities to meet for campaign strategy purposes?

Yes. Section 57(1)(d) allows any candidate or committee to use a public facility owned or leased by a public body provided that any committee has an equal opportunity to use the public facility. Thrun Law Firm recommends that the school district comply with its “Facility Use” board policy and apply any policy requirements equally to a committee regardless of its position on the proposition. The committee, however, is not allowed to use the facility’s resources (phones, copy machine, bulk postage meter, etc.) while meeting.

3.5. The “vote yes” committee would like to use our photocopier machine to copy its literature and offered to reimburse us for the expense. Is this permitted?

The SOS has indicated in its Interpretative Statements that reimbursing for a “contribution” does not cure the initial violation. Therefore, Thrun Law Firm discourages these arrangements given the potential for a violation.

3.6. Our community relations director developed the school district’s factual information literature that the “vote yes” committee would like to use for its advocacy literature. May we share it?

In our opinion, the SOS may conclude that this is an unlawful contribution to the committee given that public resources (the paid community relations director) were used in the development of the literature. We discourage sharing resources of this nature. Of course, the community relations director is authorized to volunteer on the “vote yes” committee on his or her own personal time.

3.7. The “vote no” and “vote yes” committees both submitted a request under the Freedom of Information Act (FOIA) to receive copies of our student/parent building directories to identify potential voters. Are we required to release the building directories under FOIA or does the Family Educational Rights and Privacy Act (FERPA) apply?

The student/parent building directories should not automatically be released when a school district receives a FOIA request. FERPA applies in this situation. The school must examine its FERPA policy and annual notifications to determine if this information is defined as “directory information.” If it is not so defined, or if parents have opted out of the disclosure of directory information, the requests should be denied. Importantly, a district should treat FOIA requests from both “vote yes” and “vote no” committees similarly.

The decision to release the student/parent building directory must also be reviewed in the context of Section 13(2) of FOIA which requires a local or intermediate school district or a public school academy to exempt from disclosure directory information, as defined by FERPA, if requested for the purpose of surveys, marketing, or solicitation, unless that public body determines that the use is consistent with the educational mission of the public body and beneficial to the affected students. Before disclosing the directory information, a local or intermediate school district or a public school academy may require the requester to execute an affidavit stating that directory information provided under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

3.8. We have an upcoming town hall meeting sponsored by the school district to provide information about the proposition and to answer questions. May the “vote yes” committee set up a table to distribute its literature advocating for the proposition?

The answer depends entirely upon the board of education’s policy regarding the dissemination of political literature during school sponsored events. Before permission is given to any candidates, advocacy committees or other political action groups to hand out literature at school sponsored events, the school district must analyze the request under its existing board policies and seek legal counsel, if necessary, to interpret and apply the policies in accordance with state and federal laws. Equal treatment is mandatory. It is essential that requests from both a “vote yes” and a “vote no” committee be handled similarly.

4. ELECTION ACTIVITIES

4.1. Are school districts allowed to register people to vote or handle absentee ballot applications?

Caution should be exercised in these two areas as Michigan election law is strict about who may register individuals to vote or handle *completed* absentee ballot applications. If the school district is interested in providing information to its residents about how to register to vote or obtain absentee ballot applications, we recommend that the school district work closely with its election coordinator (usually the county clerk, city clerk, or township clerk) to coordinate efforts and to confirm the accuracy of information shared in your community.

4.2. Our buildings are used as polling place locations on election day. Supporters and opponents of the proposition have asked to hand out literature in the parking lot during election day. Are they allowed to do this?

Michigan Election Law permits individuals to solicit votes and engage in campaigning *outside* of 100 feet of any doorway used by voters to enter the building in which a polling place location is located. Persons shall not post, display, or distribute in a polling place or within 100 feet of the entrance to the building in which a polling place is located any material that makes reference to an election, candidate, or ballot question.

School district literature pertaining to the ballot question must also be removed from the polling place location on the day of the election. However, the school marquee may remind voters to vote on the election date – provided the marquee is not within 100 feet of the doorway used by voters to enter the building.

4.3. On election day, may the Superintendent or other school officials visit the polling place and thank people for voting?

No. School officials and the Superintendent may only be in the polling place to vote or act as a poll watcher. During that time, they may not reference the proposition or thank people for voting. If this is important to the school district, the Superintendent or other school officials may stay outside of the polling place but must follow the 100-foot rule.

4.4. I want to be a poll watcher and/or challenger on election day. Is this permitted?

State law is specific about who can be a challenger and/or a poll watcher on election day. Information about how to become a challenger and/or poll watcher is available at: www.michigan.gov/sos. Click on “Elections” and then “Publications and Forms” then “Election Challengers Publications”. The brochure is titled “The Appointment, Rights and Duties of Election Challengers and Poll Watchers”.

We recommend that if a school employee desires to work as a challenger or poll watcher, he or she use permitted time off (i.e., vacation day or personal time) to perform this function.

4.5. On the day of the election, may we provide free admission to the high school’s theater performance of Mr. Smith Goes to Washington if the person is wearing an “I Voted” sticker?

This is not advisable. Section 931 of the Michigan Election law, MCL 168.931, prohibits any person from providing, directly or indirectly, anything of valuable consideration to induce or influence the manner of voting by a person, as a reward for refraining to vote or as an inducement or an attempted inducement to vote. Providing anything of valuable consideration to reward or induce a person to vote may be a violation of Section 931 and could be a misdemeanor.

CAUTION

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**SUMMARY OF CAMPAIGN FINANCE LAW
PA 388 OF 1976**

Permissible	Impermissible
<ul style="list-style-type: none"> • Campaign committee for either side may meet on school premises (if permissible under district’s use of school facilities policy). • Expression of views by an elected or appointed public official who has policy-making responsibilities, but limited in the use of public resources to disseminate that view. See attached FAQ for limitations. • The production or dissemination of <i>factual</i> information concerning the ballot question (this may include PTA, school district or foundation newsletters). • Production or dissemination of debates, interviews, commentary, or information by a broadcasting station, newspaper, magazine, or other periodical or publication in the regular course of broadcasting or publication. • An elected or appointed public official or an employee of a public body who, when not acting for a public body but is on his or her own personal time, is expressing his or her own personal views, is expending his or her own personal funds, or is providing his or her own personal volunteer services. 	<ul style="list-style-type: none"> • Tax dollars advocating “yes” or “no” vote or influencing passage or defeat of ballot question. • While on employee time or using public resources, working on passage or defeat of ballot question, assisting advocacy group with campaign strategy, identifying “yes” or “no” voters, planning a “vote yes” or “vote no” campaign. • Use of school district funds, personnel, office space, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure to advocate passage or defeat of ballot question. • No expression of viewpoint by school district employees or officials during school hours except for elected or appointed public official who has policy-making responsibility. See attached FAQ for limitations. • Posting or disseminating information in school buildings advocating the passage or defeat of the ballot question by school district employees or officials.

A knowing violation of the Campaign Finance Law is a misdemeanor punishable, if the person is an individual, by a fine of not more than \$1,000 or imprisonment for not more than one (1) year, or both, or if the person is not an individual by (1) a fine of not more than \$20,000 or (2) a fine equal to the amount of the improper contribution or expenditure (whichever is greater). In addition, if the Secretary of State determines that a violation of the Act occurred, the Secretary of State may impose a civil fine equal to triple the amount of the contribution or expenditure.