Gainesville Regional Utilities Authority
AGENDA

Wednesday, February 18, 2026, 5:30 p.m.
GRU Administration Building
301 SE 4th Avenue
Gainesville, FL 32601

Directors
Chair Eric Lawson
Vice-Chair David Haslam
Director Jack Jacobs
Director Robert Skinner

If you have a disability and need accommodation in order to participate in this meeting, please call (352) 334-5051 at least two business days in advance. TTY (Text Telephone Telecommunication Device) users please call 711 (Florida Relay Service). For Speech to Speech (STS) relay, please call 1-877-955-5334. For STS Spanish relay, please call 1-877-955-8773. For STS French Creole relay, please call 1-877-955-8707.

A. CALL TO ORDER
Agenda Statement: The Gainesville Regional Utilities Authority encourages civil public speech. The Gainesville Regional Utilities Authority expects each person entering this chamber to treat others with respect and courtesy. Speakers are expected to focus on agenda items under discussion. Signs, props, posters, food, and drinks should be left outside the auditorium.

B. ROLL CALL

C. INVOCATION

D. PLEDGE OF ALLEGIANCE

E. ADOPTION OF THE AGENDA
Includes Consent and Regular Agenda Items.

F. APPROVAL OF MINUTES
Approval of Minutes from January 14, 2026 GRU Authority meeting.

1. Gainesville Regional Utilities Approve the Minutes from the January 14, 2026 Meeting (B)
Recommendation: The Authority approve the minutes from the January 14, 2026 meeting.

G. CHAIR COMMENTS

H. GENERAL PUBLIC COMMENT
(for items not on the agenda, not to exceed 30 minutes total)

I. DIRECTOR COMMENTS

J. CONSENT AGENDA

1. **2026-122 State of the Utility, December 2025 (B)**
Department: Gainesville Regional Utilities/Office of the Chief Operating Officer

Description: GRU will be providing a monthly update to Authority members to ensure they are aware of the important projects and relevant utility measurements and benchmarks. This report provides information from December 2025.

Fiscal Note: None

2. **2026-123 Review and Readoption of the State of Florida Code of Ethics for the GRU Authority (B)**
Department: Gainesville Regional Utilities/General Counsel

Description: The Authority is required to review its code of ethics policy biennially pursuant to Art. 7.10(7). It is standard practice for public boards to adopt the State of Florida Code of Ethics.

At its November 1, 2023 meeting, the Authority adopted the 2023 State of Florida Code of Ethics. The Authority here is presented with the 2025 State of Florida Code of Ethics (most recent).

Fiscal Note: None.

Recommendation: The GRU Authority review its ethics policy and adopt the State of Florida Code of Ethics.

3. **2026-124 Fuel Levelization and Purchased Gas Adjustment Regulatory Items**
Department: Gainesville Regional Utilities/Budget, Finance, and Accounting

Description: This item addresses changes to GRU's Electric System fuel levelization balance and the Gas System purchased gas adjustment balance resulting from GRU's transition from a member to a partner with The Energy Authority (TEA). Proceeds from this transition were used to reduce a significant portion of the Electric fuel levelization regulatory asset and to increase the Gas purchased gas adjustment regulatory liability.

Fiscal Note: Reduction of the Electric System regulatory asset by $10.7 million and increase of the Gas System regulatory liability by $1.1 million.

Recommendation: The GRU Authority approve the removal of the portion of the regulatory asset in the Electric System and increase the portion of the regulatory liability in the Gas System.

4. **2026-125 Regulatory Items**

Department: Gainesville Regional Utilities/Budget, Finance, and Accounting

Description: This item addresses requirements related to GRU's accounting for regulatory items.

Fiscal Note: None, as these are already recorded.

Recommendation: The GRU Authority affirm GRU's regulatory items.

K. CEO COMMENTS

L. ATTORNEY COMMENTS

M. RESOLUTIONS (Roll Call Required)

1. **2026-127 SRF Grant Resolution – Supplemental Appropriation for Hurricanes Helene and Milton and Hawai'i Wildfires (B)**
Department: Gainesville Regional Utilities/Water Wastewater

Description: The Supplemental Appropriation for Hurricanes Helene and Milton and Hawai'i Wildfires (SAHM) was established by Congress in 2024 through the American Relief Act. SAHM will provide $3 billion in funding to assist water and wastewater facilities impacted by Hurricanes Helene and/or Milton or the Hawaii wildfires in designated regions of the country. The funding can be used for capital improvements to increase resiliency from future disasters and is being administered by individual states through the State Revolving Fund (SRF) Program.

GRU submitted a Request for Inclusion and has been listed to receive up to $19,166,503 – the maximum allowable for any one entity – for improvements to GRU's wastewater collection and treatment systems. Gainesville meets the program criteria as a financially disadvantaged community; therefore, the award will be provided as 100 percent principal forgiveness. The proposed projects will include improvements to wastewater lift stations and force mains and may also include gravity sewer improvements, redundant electric feeds, and backup generation for wastewater treatment facilities. The next steps require GRU to submit a loan application to Florida Department of Environmental Protection (FDEP) and to develop a workplan describing the proposed improvements. Both the loan application and workplan are subject to approval by FDEP.

The loan application package, which must be submitted by March 12,2026, must include a GRUA resolution authorizing the CEO to execute an SRF loan agreement to receive the funding. The attached resolution is similar to the resolution approved by GRUA at its December 10, 2025 meeting for the PFAS Treatment Evaluation. As with that project, there is no requirement for pledged revenues for repayment, as no repayment is required.

Fiscal Note: Through the SRF program, SAHM will provide up to $19,166,503 in

funding for wastewater system improvements to increase resiliency to future storms. The funding will be provided as 100 percent principal forgiveness and does not require local matching funds. The proposed workplan will include projects already identified in the wastewater 10-year capital improvement plan, therefore this funding will offset future capital spending.

Recommendation: The GRU Authority (i) approve the resolution and authorize the Chair to execute the same, (ii) authorize the CEO to enter into the SRF loan agreement with the FDEP for the SAHM funding; (iii) authorize staff to take all necessary administrative actions to implement each of the foregoing.

2. **2026-128 Resolution Authorizing Gainesville Regional Utilities Financial Transactions (B)**
Department: Gainesville Regional Utilities/Budget, Finance, and Accounting

Description: This is a resolution requesting that the Gainesville Regional Utilities Authority (GRUA) authorize the CEO and/or Chief Financial Officer to negotiate and execute financial transactions, within prescribed execution parameters, and that GRUA request the City Commission of the City of Gainesville to take certain actions in connection therewith necessary and proper to effectuate the orderly transition of governance.

Fiscal Note: As noted above, these transactions are designed to

- Efficiently and effectively access capital markets to acquire new money for system infrastructure construction, acquisition, and upgrade
- Reduce debt portfolio risk (limiting unhedged variable rate debt, locking favorable rates, etc.)
- Add savings certainty
- Generate savings through reducing projected debt service costs
- Continue effective administration of GRU’s variable rate and direct placement debt programs
- Generate fuel acquisition cost savings

Recommendation: The GRUA (1) adopt the resolution authorizing the CEO and/or the Chief Financial Officer to negotiate and execute the financial transactions, within prescribed execution parameters and select an underwriter pool to facilitate potential public market debt transactions, and (2) request the City Commission of the City of Gainesville to take certain actions in connection therewith necessary and proper to effectuate the orderly transition of governance.

N. BUSINESS DISCUSSION ITEMS

1. **2026-126 Approval of Code of Business Conduct for the Gainesville Regional Utilities Authority (B)**

Department: Gainesville Regional Utilities/General Counsel

Description: The Authority is required to review its code of business conduct (its framework for conducting public meetings) biennially, pursuant to Art. 7.10(7).

At its January 14, 2026 meeting, the Authority directed Vice Chair Haslam to work with Utilities Attorney Derek D. Perry on recommendations to bring forward for Authority discussion at its February 18, 2026 meeting.

Attached herein is:

1.Draft Revised Code of Business Conduct (strikethrough/underline)

2.Draft Revised Board Meeting Protocols for Citizens (strikethrough/underline)

3.Legal Memo Regarding Public Comment

Fiscal Note: None

Recommendation: The GRU Authority review and discuss its code of business conduct and adopt it as is or provide direction on changes.

O. DIRECTOR COMMENTS

P. ADJOURNMENT

Gainesville Regional Utilities Authority

MINUTES

January 14, 2026, 5:30 p.m.
GRU Administration Building
301 SE 4th Avenue
Gainesville, FL 32601

Members Present: Vice-Chair Haslam, Jack Jacobs, Chair Lawson, Robert Skinner

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A. CALL TO ORDER

Meeting called to order at 5:30pm

B. ROLL CALL

C. INVOCATION

Given by Vice Chair David Haslam

D. PLEDGE OF ALLEGIANCE

E. ADOPTION OF THE AGENDA

Public Comment: Jim Konish, Chuck Ross

Moved by Vice-Chair Haslam
Seconded by Jack Jacobs

Approved

F. APPROVAL OF MINUTES

Moved by Robert Skinner
Seconded by Vice-Chair Haslam

Approved

1. **Gainesville Regional Utilities Authority Approve the Minutes from the December 10, 2025 Meeting (B)**

   Recommendation: The Gainesville Regional Utilities Authority approve the minutes from the December 10, 2025 meeting.

G. CHAIR COMMENTS

Chair Lawson had no comments at the time.

H. GENERAL PUBLIC COMMENT

Public Comment: Angela Casteel, Jason Bellamy-Fults, Jim Konish, Chuck Ross, Messey, Emily Khazan, Susan Botcher, Janice Garry, Roberta Gastmeyer, David Hastings, Nancy Deren

At 5:48 p.m., the Chair determined that, in order to allow everyone an opportunity to speak and still remain within the allotted 30 minutes, the time per speaker would be set at 2 minutes instead of the usual 3.

I. DIRECTOR COMMENTS

Director Jack Jacobs offered comments in response to statements made during public comment.

Vice Chair Haslam also provided remarks regarding statements made during public comment.

Chair Lawson and Director Skinner had no comments at that time.

J. CONSENT AGENDA

1. **2026-45 State of the Utility, November 2025 (B)**

K. CEO COMMENTS

CEO Bielarski delivered a presentation titled *GRU Review*, providing an update on the most significant and meaningful events since the last GRUA meeting.

Director Skinner noted that he appreciated seeing fewer shut□offs than usual over the holidays. He also mentioned that the federal government is looking into low□flow toilets, and CEO Bielarski responded to his comments. Director Jack Jacobs added that although GRU has experienced outages and equipment has been taken offline, service to customers has not been affected. CEO Bielarski also shared that GRU was recognized by FMEA as one of the most reliable utilities and received an award for that achievement.

Director Skinner then asked whether the water consumption permit would be affected by any federal actions, and CEO Bielarski responded.

1. 2026-46 GRU Review – December 2025 (B)

Heard

L. ATTORNEY COMMENTS

Kierston Ballou of Folds Walker, representing the City of Alachua, disclosed a potential conflict of interest due to ongoing negotiations with GRU regarding a water line. Derek Perry will represent GRU in this matter. The Board voted on the conflict waiver. Mr. Perry reviewed the letter and noted that the conflict is minimal, as Folds Walker represents several municipal governments. He recommended approval of the waiver, adding that if Folds Walker were not representing the City of Alachua, he would have represented GRU in this matter regardless.

Mr. Perry recommended that the Board approve the conflict waiver.

Public Comment: Jim Konish

Ms. Ballou provided an update on the legal matter involving the City of Gainesville, noting that a hearing is scheduled for February 10 at the First District Court of Appeal.

Mr. Perry stated that the Ethics Policy and Code of Business Conduct should be revisited periodically and that this matter will be brought before the Board at the February 18, 2026 meeting. He requested direction from the Board regarding how they would like the review process to proceed and any recommendations they may have.

Vice Chair Haslam will work with Mr. Perry on this matter. Chair Lawson stated that the item will be brought to the Board at the February meeting, after which Board members will conduct their review.

Scott Walker informed the Board that if they are unable to attend the First DCA hearing in person, a link will be provided so they may view the livestream.

Moved by Vice-Chair Haslam
Seconded by Jack Jacobs

Approved

M. BUSINESS DISCUSSION ITEMS

1. 2026-48 Murphree WTP High Service Pumping Station and Ground Storage Tank Progressive Design-Build Selection (B)

Debbie Daugherty, Water/Wastewater Officer, delivered a presentation and provided an in□depth explanation of the request before the Board.

Chair Lawson asked about the timeline for any available grants and how GRU plans to maximize those opportunities. Ms. Daugherty responded, noting that there are limited grant options for water, with more opportunities available in wastewater.

Director Jacobs addressed a statement made during public comment suggesting that the Authority does not discuss plans and simply approves items presented to them. He noted that members of the public often leave before this portion of the meeting. He asked how companies are ranked in the evaluation process, and Ms. Daugherty responded. CEO Bielarski added further clarification regarding GRU's planning process.

Public Comment: Jim Konish

Vice Chair Haslam also provided remarks.

Chair Lawson asked Mr. Perry to address comments made during public comment that could be perceived as rude. Chair Lawson emphasized that he strives to allow the public to speak. Vice Chair Haslam agreed, noting that Mr. Konish frequently speaks at meetings and that freedom of speech is respected.

CEO Bielarski stated that during his time as General Manager, Mayor Poe enforced strict rules regarding decorum, emphasizing that comments should not become personal. Chair Lawson noted that this is something to consider when reviewing the agenda process. Mr. Perry added that speakers should address the Chair rather than other individuals, including Board members, and that revisions to the Code of Business Conduct could address this.

Director Jacobs commented that personal attacks against Mr. Bielarski are inappropriate, noting that he has a strong team supporting him and providing accurate information for Board presentations. He stated that such attacks are unfair and do not reflect how the process works.

Director Skinner addressed remarks made by Mr. Konish during public comment, stating that Murphree staff conduct constant testing of the water supply.

Moved by Robert Skinner
Seconded by Vice-Chair Haslam

Recommendation: The Authority authorizes the CEO, or designee,

1)to approve the ranking of design-build firms for the Murphree Water Treatment Plant High Service Pumping Station and Ground Storage Tank Progressive Design-Build Project;

2)to enter contract negotiations with the design build firms in order of rank in accordance with CCNA'

3)and upon successful negotiations, to execute a contract, subject to approval of the Utility Attorney as to form and legality, for the total project cost not to exceed $55 million in accordance with the annually approved budget on a fiscal year basis.

Approved

2. 2026-50 GRU Financial Transactions

Mark Benton, Director of Accounting and Finance, presented an overview of GRU's process for executing financial transactions. He explained that when the resolution is brought before the GRU Authority in February, a similar resolution will also be presented to the Gainesville City Commission. This parallel action is intended to reassure investors regardless of the outcome of the ongoing legal process.

CEO Bielarski expanded on the presentation, offering additional context to help clarify how bonds function within the utility industry.

Director Skinner asked what would occur if the City Commission were to reject GRU's resolution request, and CEO Bielarski responded.

Director Jacobs noted that if the Commission were to regain control, the funding in question would still be necessary. Mr. Benton added that if the Commission were to reject the resolution, then Budget Finance & Accounting (BFA) department would need to explore alternative options, which would likely be more costly. He emphasized that these funds are

essential to maintaining utility operations. CEO Bielarski stated that other options are available if needed, but unlikely.

Recommendation: The Authority accept a presentation on GRU's process for executing financial transactions. Final approval will occur on February 18, 2026.

Heard

3. 2026-51 Extension of Direct Placement Borrowing Agreement

Mr. Mark Benton provided an explanation of the request before the Board.

Moved by Robert Skinner
Seconded by Jack Jacobs

Recommendation: The Authority approve the proposed up to two-year extension on the 2023 Series A bonds.

Approved

N. RESOLUTIONS (Roll Call Required)

1. 2026-52 Establishment of the Government Code Inspector

Chad Parker, Energy Delivery Officer, delivered a presentation outlining the justification for the Government Code Inspector role.

Director Jacobs asked how GRU currently tracks these activities and how reimbursement for damages is handled. Mr. Parker responded. Director Jacobs also confirmed that GRU would not be hiring a new employee for this role but would instead be training existing staff.

Recommendation: The Authority approve a resolution establishing the Government Code Inspector role at GRU.

Approved

O. DIRECTOR COMMENTS

Director Skinner offered comments in response to statements made during public comment.

Vice Chair Haslam noted that the Board members serve without compensation as a public service. He added that each member participates for their own

reasons but with a shared commitment to the community. He also thanked the members of the public who stayed for the entire meeting.

Director Jacobs had no comments.

Chair Lawson had no comments.

P. ADJOURNMENT

Meeting adjourned at 7:23pm.

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Kunti Nesbitt, GRUA Staff Liaison

Gainesville Regional Utilities Authority
Agenda Item Report

File Number: 2026-122

Agenda Date: February 18, 2026

Department: Gainesville Regional Utilities

Title: 2026-122 State of the Utility, December 2025 (B)

Department: Gainesville Regional Utilities/Office of the Chief Operating Officer

Description: GRU will be providing a monthly update to Authority members to ensure they are aware of the important projects and relevant utility measurements and benchmarks. This report provides information from December 2025.

Fiscal Note: None

State of the Utility

FY26
December

Energy Supply

Major Figures & Achievements

YTD

Regulatory Compliance (NERC)

Environmental Compliance

We have no outstanding ongoing environmental or electric regulatory compliance issues at this time.

Deerhaven (DH)

Deerhaven Unit 1 (DH1)

Unit remained offline in economic outage and fully available throughout December. The station battery was replaced and commissioned following failure of the battery load test conducted in October 2025.

The unit's normal secondary fuel is #6 fuel oil (Bunker C); however, GRU is transitioning this unit to operate exclusively on #2 fuel (diesel). This change supports the planned decommissioning of the South Bulk Tank in early calendar year 2026. Approximately 500,000 gallons of #6 fuel remain on site and are planned to be utilized for power generation in Jan. 2026 to maximize consumption prior to tank removal. This approach represents the most economical solution for GRU customers.

Deerhaven Unit 2 (DH2)

Unit was online during December but operated at a derated load of approximately 120 MW due to one cooling tower circulating water pump being out of service. Following completion of the planned outage in November, the South Circulating Water Pump motor experienced an electrical fault. After removal and inspection, the contractor (IPS, Jacksonville) determined that the motor stator required a rewind and the rotor required repairs. The repaired motor is scheduled to return to the plant on Feb. 9, 2026. Upon receipt, staff will coordinate installation and restoration of the pump, eliminating the current derate. The unit will not require an outage for this restoration.

Energy Supply

Deerhaven Combustion Turbines
CT1 completed a borescope inspection and voltage regulator replacement in December and was restored to service on December 12, 2025. No additional issues were identified. CT2 and CT3 were fully available throughout December.

Deerhaven Renewable (DHR)

- Unit remained online during December.

Kelly Generating Station (JRK)

JCC1 (combined cycle) remained online and operated at a fixed derated load of 100 MW net, consisting of approximately 65 MW from CT4 and 35 MW from Unit #8. Planning and procurement of materials and services continue for the scheduled JCC1 outage beginning in January 2026. This outage will focus on restoring full load capability while ensuring compliance with emissions and operational limits.

South Energy Center (SEC)

During December, the Wärtsilä engine experienced misfiring issues following a controls software upgrade completed in November. Wärtsilä technicians were on site to troubleshoot; however, initial efforts did not resolve the issue. Wärtsilä has since scheduled a senior specialist for advanced troubleshooting in mid-January 2026. The engine was intermittently out of service during troubleshooting but was returned to full service on Dec. 20, 2025, pending further support.

The Solar engine operated intermittently while the Wärtsilä engine was down and remained fully available throughout the month.

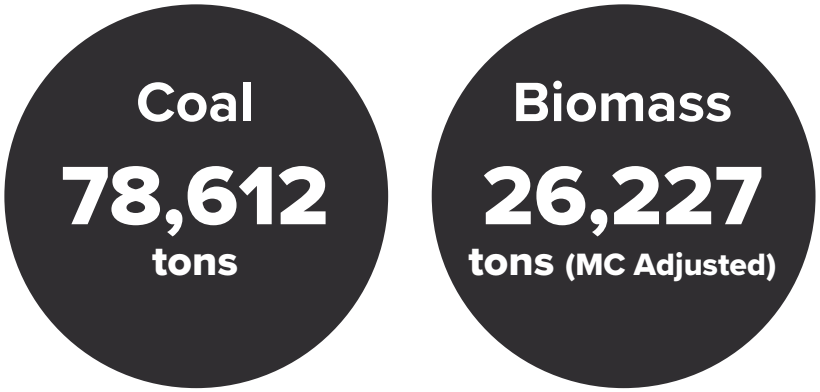
Other Items

At JRK, material procurement and service planning are in the final stages for the extended outage scheduled to begin January 9, 2026. Additionally, the three combustion turbines (CT1–CT3) decommissioned in 2010 remain in the process of being removed by a contractor for repurposing. Removal of all units and associated structures is ongoing.

Energy Supply

Fuels Management

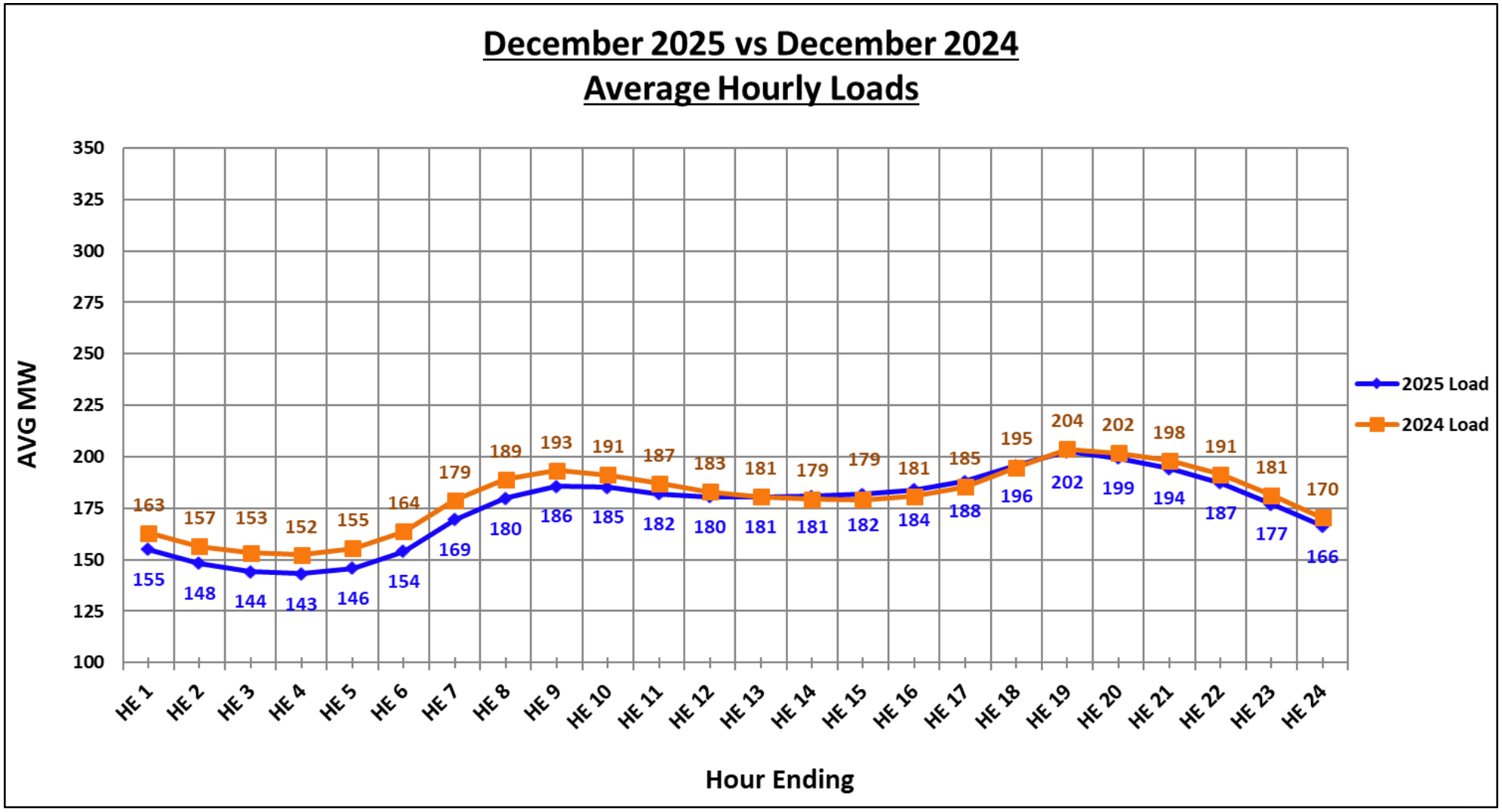
Inventory



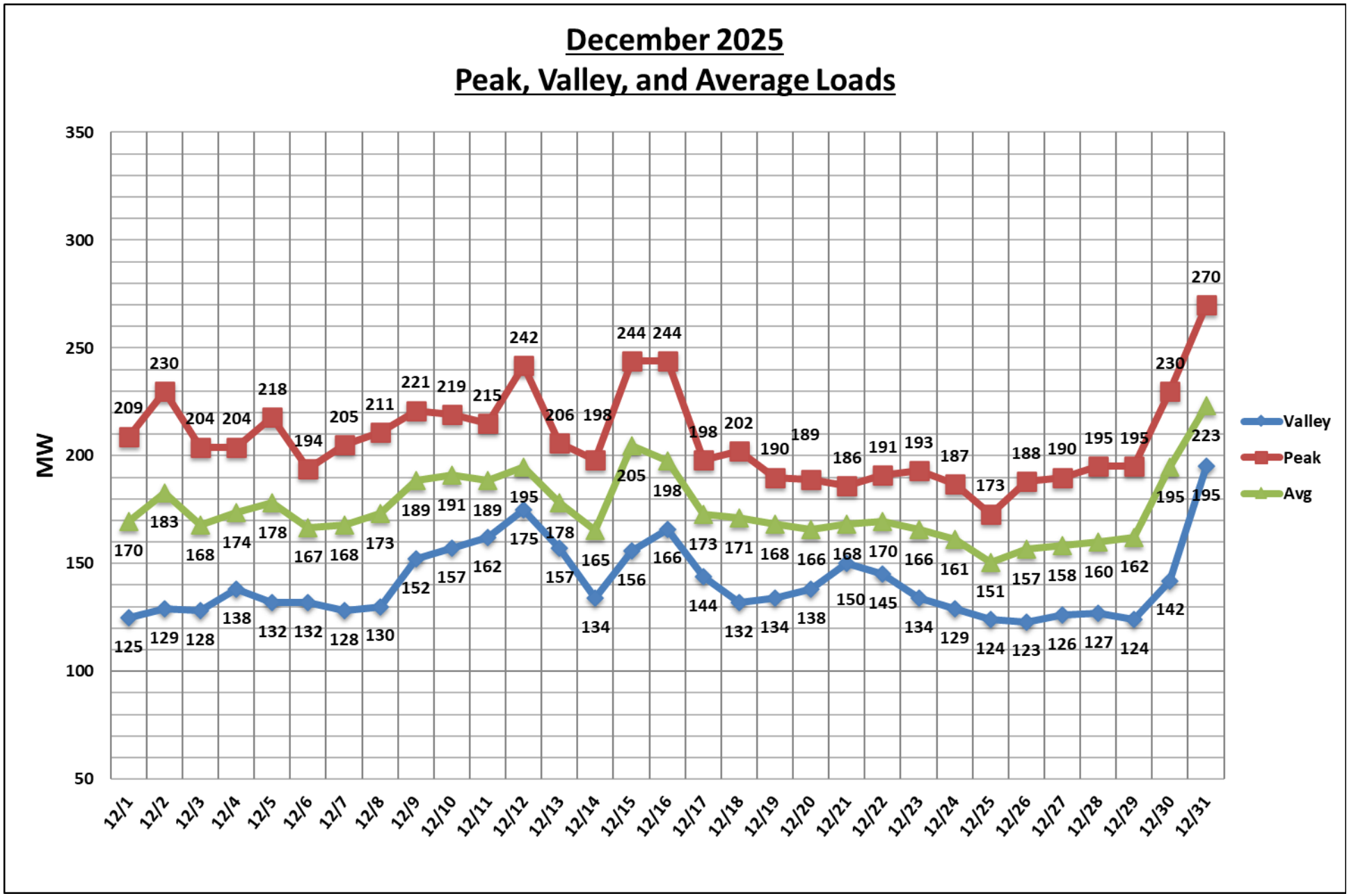
41 days at full load;
82 days at half load.

10 days at full load;
13 days at half load;
13 days at most recent burn rate.

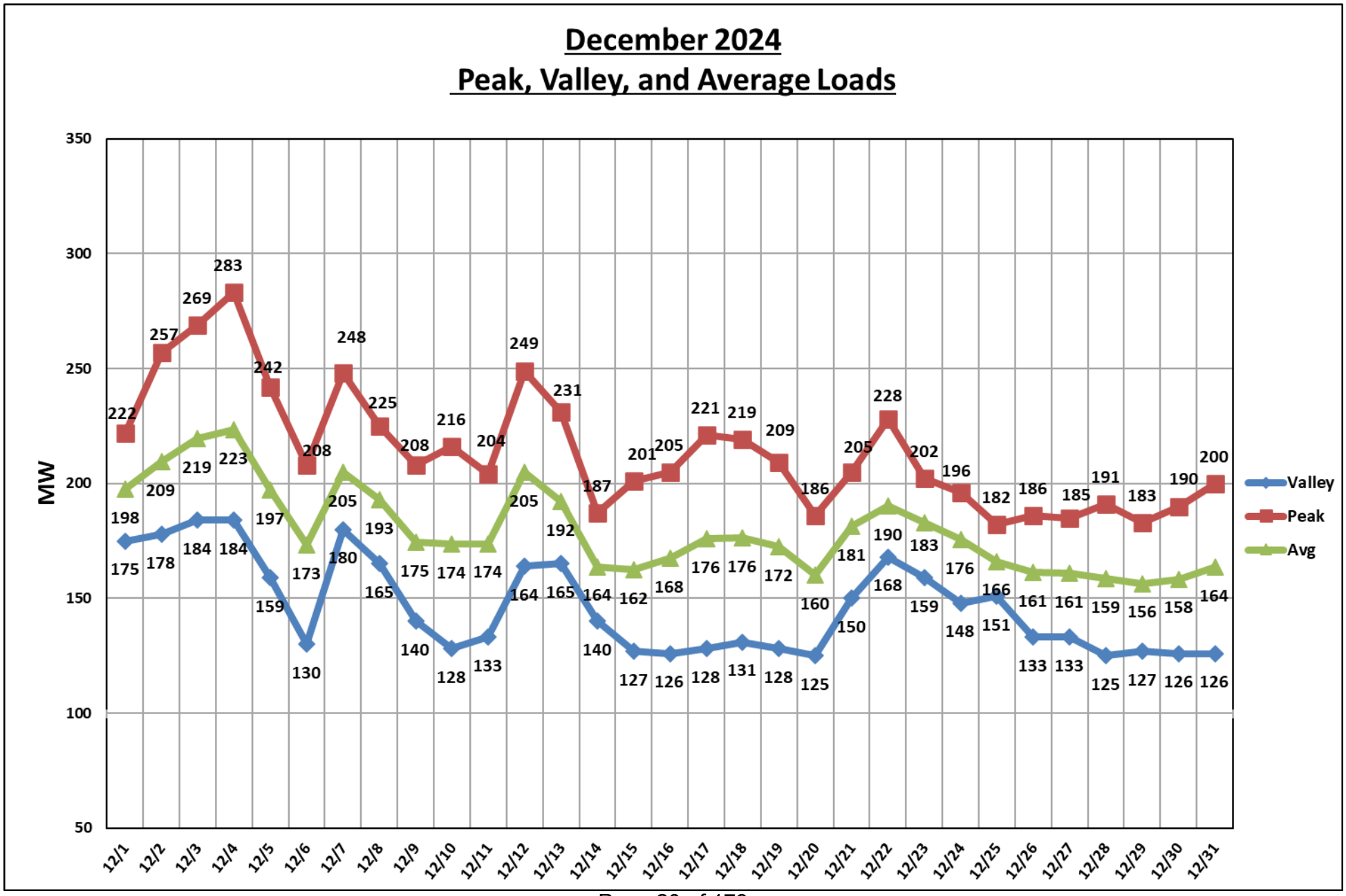
Energy Supply



Energy Supply



Energy Supply



Energy Supply

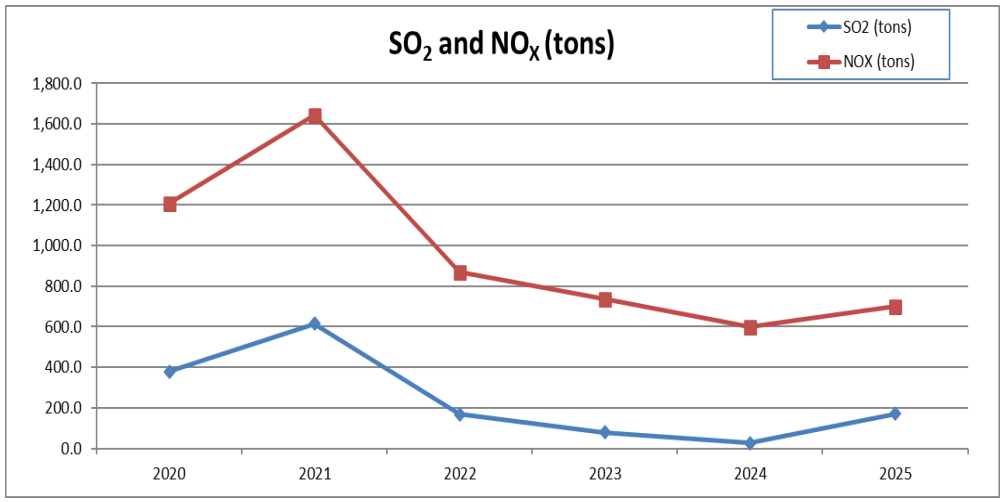
Emissions Data

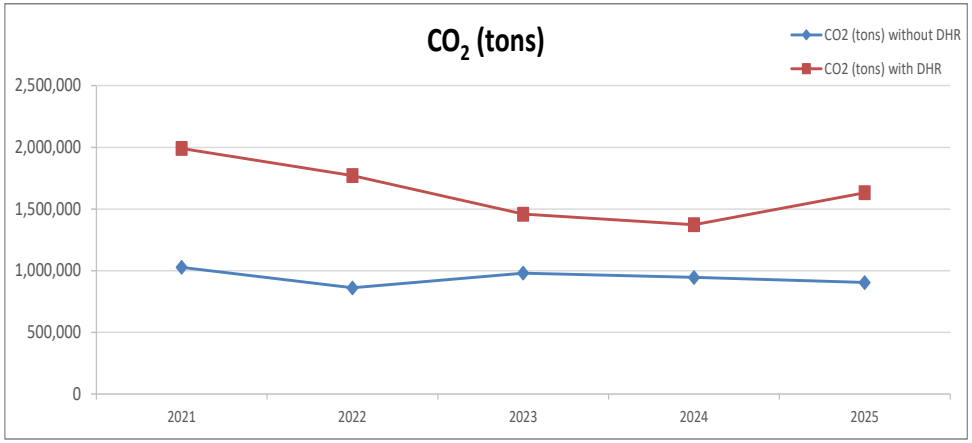
Yearly Emissions

	SO_2 (tons)	NO_X (tons)	Mercury (lbs)*	PM (tons)*	CO_2 (tons) without DHR	CO_2 (tons) with DHR
2020	379.3	1,208.3	3.1	56.5	1,033,389.5	1,697,218.5
2021	614.7	1,643.0	3.7	63.7	1,027,918.9	1,991,487.9
2022	167.4	867.8	2.1	11.2	861,824.7	1,771,204.7
2023	80.2	737.1	0.6	12.2	980,726.2	1,458,824.3
2024	26.5	598.4	0.8	5.3	946,129.6	1,373,862.0
2025	170.3	699.9	1.4	8.4	905,220.1	1,632,275.7

***Mercury and Particulate values are for Unit 2 only.**

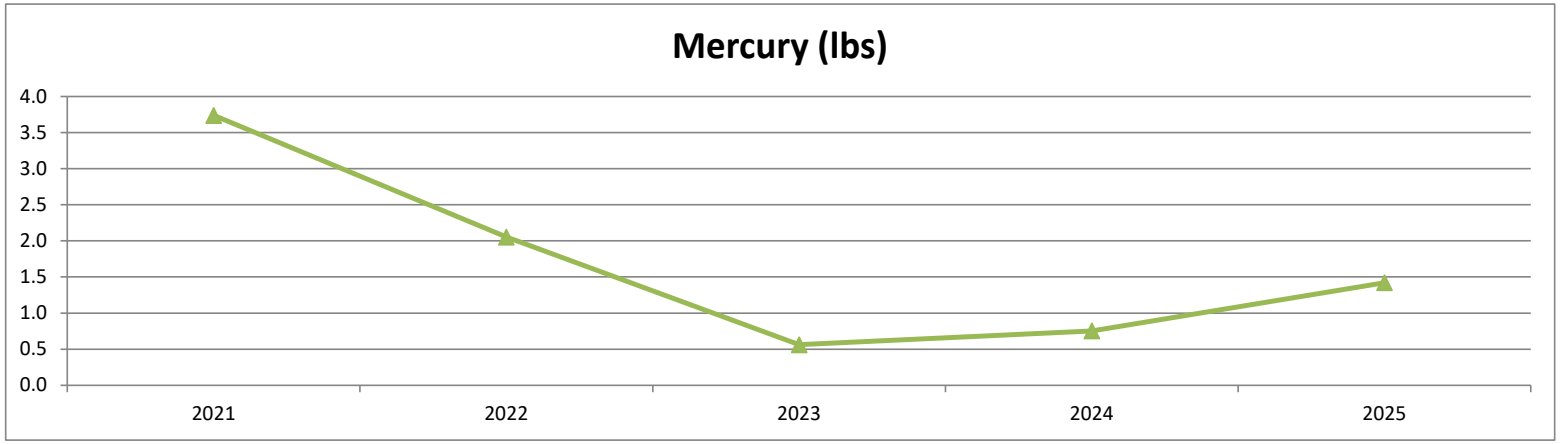
****Values Subject to Change - Final Values Dependent on Fuel Analyses**

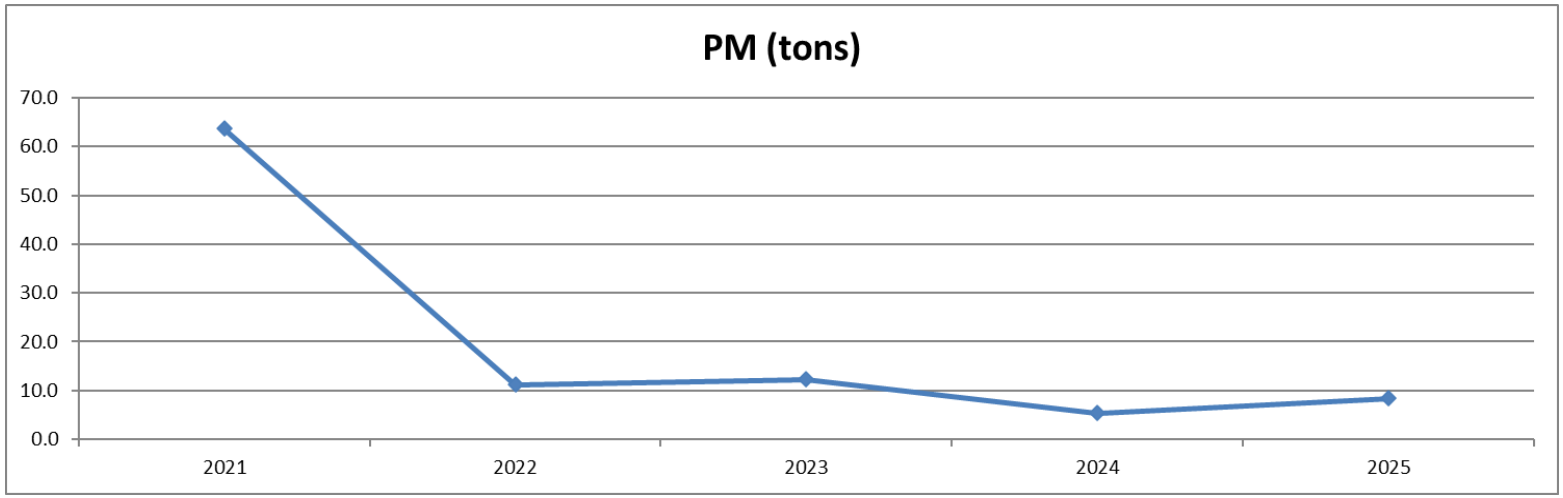




Energy Supply

Yearly Emissions





Energy Supply

Emissions Data

2025 (thru December)

Unit	SO_2 (tons)	NO_X (tons)	Mercury (lbs)	PM (tons)	CO2(tons)	SO_2 Rate (lb/MMBtu)	NO_X Rate (lb/MMBtu)	HTIP (MMBtu)	GEN (MW-hours)
DH1	50.4	101.8			85,679.8			1,403,499.0	114,103.0
DH2	104.5	310.7	1.42	8.4	452,182.0			7,504,432.0	655,910.0
DHCT3	0.0	1.0			4,058.7			68,301.0	5,205.0
JRKCC1	1.9	79.8			363,299.6			6,113,215.7	700,200.0
DHR	13.5	206.6			727,055.6			6,929,837.0	515,688.0
TOTAL	**170.3**	**699.9**	**1.42**	**8.4**	**1,632,275.7**			**22,019,284.7**	**1,991,106.0**

TOTALS without DHR

Unit	SO_2 (tons)	NO_X (tons)	Mercury (lbs)	PM (tons)	CO_2 (tons)	SO_2 Rate (lb/MMBtu)	NO_X Rate (lb/MMBtu)	HTIP (MMBtu)	GEN (MW-hours)
DH1	50.4	101.8			85,679.8			1,403,499.0	114,103.0
DH2	104.5	310.7	1.42	8.4	452,182.0			7,504,432.0	655,910.0
DHCT3	0.0	1.0			4,058.7			68,301.0	5,205.0
JRKCC1	1.9	79.8			363,299.6			6,113,215.7	700,200.0
Total Without DHR	**156.8**	**493.3**	**1.42**	**8.4**	**905,220.1**			**15,089,447.7**	**1,475,418.0**

Energy Supply

Emissions & Compliance Data

		December		Calendar Year to Date (December)
Notices of Violation		0		0
Emissions				
DH1, DH2, DHCT3, JRKCC1				
	CO_2 (tons)	74,300.5		905,220.1
	NO_x (tons)	28.0		493.3
	SO_2 (tons)	0.5		156.8
DH Unit 2 (only)				
	PM_{FILT} (tons)	1.9		8.4
	Hg (lbs)	0.2		1.4
DHR				
	CO_2 (tons)	72,042.5		727,055.6
	NO_x (tons)	20.7		206.6
	SO_2 (tons)	1.3		13.5

Energy Supply

Availability & Capacity

	Availability			Capacity		
	Month	**FY26 YTD**	**FY25 YTD**	**Month**	**FY26 YTD**	**FY25 YTD**
DH-2	100.00%	63.59%	94.26%	22.59%	15.76%	34.26%
DH-1	99.03%	99.65%	99.30%	0.00%	1.75%	21.30%
Kelly CC	100.00%	100.00%	83.54%	81.20%	85.74%	75.93%
DH CT-1	52.61%	84.20%	97.96%	0.57%	0.19%	0.02%
DH CT-2	100.00%	100.00%	99.91%	0.01%	0.00%	0.01%
DH CT-3	100.00%	100.00%	96.60%	0.00%	0.13%	0.71%
DHR	100.00%	100.00%	64.49%	62.91%	58.38%	37.07%

Fuel Consumed

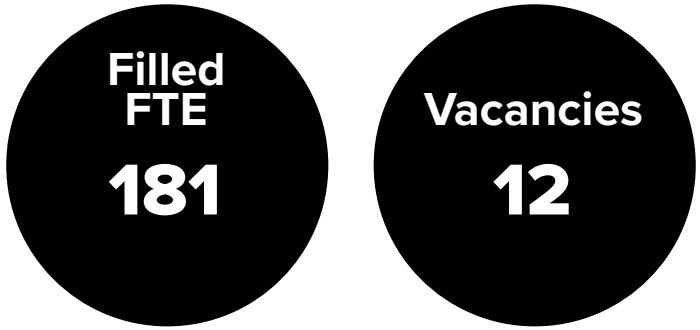
	Month	**YTD**	**Budget YTD**	**Delta Budget**
Coal (Tons)	7	9	—	9
Gas (MCF)	1,023,160	2,774,526	2,475,731	298,795
Fuel Oil (Gal)	45	255	—	255
Biomass (Tons)	67,622	188,633	162,240	26,392

Energy Supply

Performance Parameters

Sept. 2025	kWh/Month	kWh/YTD	Budget YTD	Delta Budget
DH-2	35,305	573,751	$478,649.00	$95,102.35
DH-1	-	101,679	$34,269.00	$67,409.63
Kelly CC1	65,658	688,906	$841,103.00	$(152,196.93)
CTs	1	5,155	$355.00	$4,800.28
Grid	(17,437)	70,106	$114,086.00	$(43,980.00)
DHR	47,433	451,949	$294,133.00	$157,815.79

Personnel



Energy Supply

Vacancies and Retirements

Status	Title	Filled?	Group	Vacant Date
Vacant	Analyst Senior	Y	GRU Deerhaven Plant	Aug. ’25
Vacant	Control Room Operator	Y	GRU Deerhaven Plant	Sept. ’25
Vacant	Control Room Operator	Y	GRU Deerhaven Plant	Sept. ’25
Vacant	Engineer and Utility Designer IV	N	GRU Deerhaven Plant	Feb. ’24
Vacant	Engineer and Utility Designer IV	N	GRU Deerhaven Plant	Sept. ’25
Vacant	Power Plant Chemistry Technician	N	GRU Deerhaven Plant	Nov. ’25
Vacant	Power Plant Control Specialist	N	GRU Deerhaven Plant	Oct. ’25
Vacant	Power Plant Control Specialist	N	GRU Deerhaven Plant	Dec. ’25
Vacant	Power Plant ICE Supervisor	N	GRU Deerhaven Plant	May ’23
Vacant	Power Plant Journeyman Operator	N	GRU Deerhaven Plant	March ’25
Vacant	Power Plant Journeyman Operator	N	GRU Kelly Plant	Aug. ’25
Vacant	Power Plant Mechnanic Journeyman	N	GRU Deerhaven Plant	Jan. ’25
Vacant	Process Plant Operator	N	GRU Deerhaven Plant	July ’24
Vacant	Production Technician	N	GRU Kelly Plant	April ’25
Vacant	Production Technician	N	GRU Kelly Plant	June ’25

Energy Delivery

Reliability Statistics

Outage Causes

Cause	Overhead	Underground	Both
Undetermined	5	0	0
Weather	2	0	1
Vegetation	14	0	0
Animals	3	1	0
Foreign Interference	0	1	0
Human Cause	2	2	1
Equipment Failure	10	2	0
Other	0	0	0
Total	**36**	**6**	**2**

Energy Delivery

Electric System Consumption

	Dec. 2025		Dec. 2024	
	CONSUMPTION (kWh)	**CUSTOMERS**	**CONSTUMPION (kWh)**	**CUSTOMERS**
Feed-in-Tariff - Residential	131	84	-3,283	103
Feed-in-Tariff - General Service	2,375	144	-3,564	149
Electric - GS - Demand - Regular	40,769,439	1,064	42,302,939	1,111
Electric - General Service Demand PV	1,577,397	32	1,475,000	30
Electric - GS - Kanapaha w Curtail Cr	1,036,800	1	993,600	1
Electric - GS - Demand - Large Power	8,093,920	11	7,259,960	8
Electric - GS - Murphree Curtail Credit	1,448,155	1	1,490,400	1
Electric - GS - Large Demand PV	3,314,400	2	3,638,400	2
Electric - GS - Non Demand	13,034,571	10,212	14,064,602	10,160
Electric - General Service PV	134,014	90	164,037	85
Electric - Lighting - Rental *	834,116	1,843	811,488	1,817
Electric - Lighting - Street - City *	804,646	14	404,013	16
Electric - Lighting - Street - County *	127,106	1	127,313	1
Electric - Lighting - Traffic	288	2	163	1
Electric - Residential - Non TOU	55,204,142	91,244	60,444,164	91,156
Electric - Residential PV	684,824	1,566	695,461	1,474
Total Retail Electric	**127,066,324**	**104,453**	**133,864,693**	**104,281**

** Number of customers is excluded from total customer count.*

Energy Delivery

Gas System Consumption

	Oct. 2025		Oct. 2024	
	CONSUMPTION (THM)	**CUSTOMERS**	**CONSUMPTION (THM)**	**CUSTOMERS**
Gas - GS - Regular Service (Firm)	795,771	1,262	794,083	1,275
Gas - GS - Regular Service (Small)	32,200	512	27,349	491
Gas - GS - Interruptible - Regular Serv	58,271	2	21,095	1
Gas - GS - Interruptible - Large Volume	862,496	14	474,892	8
Gas - Residential - Regular Service	744,976	35,734	675,800	35,580
Total Retail Gas	**2,493,714**	**37,524**	**1,993,219**	**37,355**

Major Projects

ED Electric Engineering

- **Archer Place Apartments –** Multistory buildings with apartments and retail. Overhead-to-underground conversion of electrical facilities is completed. Temporary power provided for Phase 1 (back end of property).
- **TACTICS –** Circuits 209–287 – T&D has started construction (approximately 65% complete).
- **County Criminal Court Complex Expansion –** Demolition of parking lights and relocation of the traffic light source completed. Coordinating construction with developers. Pre-construction meeting coming soon; switchgears arriving in April.
- **New Feeder for Amazon EV Fleet –** Engineering design 90% completed and released to T&D to begin construction.
- Woodland Park – Gainesville Housing Authority – Demolition completed.
- **Natura –** Multifamily apartment development. Design completed and released; construction underway (30% complete, awaiting developer).
- **Hammock Preserve –** Residential and commercial mixed-use development. Ready for construction.
- **Gilbane–Colligate Apartments –** New multistory apartments on NW 20th Avenue. Construction in progress (15% complete, awaiting developer).
- **TACTICS – Circuit 550 –** T&D has started construction.
- **New Feeder – Circuit 1038 –** Under construction (65% complete).

Gas Engineering

- **Implementing AUD Rollout –** Completing designs using only AUD. AUD gas template rollout completed jointly with Electric Engineering; continuing coordination for updates as needed.

Energy Delivery

Gas Engineering (continued)

- **Ben E. Keith Facility –** Entire project permitted; installation of 6-inch gas main underway (10% complete).
- **Bridlewood –** External 6-inch portion nearly complete; awaiting developer completion of internal portion (90% complete).
- **Westgate Backfeed –** Continuing design to remove and replace nonstandard 5-inch steel pipe from the system (66% complete).

Electric Operations

T&D Operations

- Replaced a transmission insulator string identified as defective during routine inspection. An outage was taken to complete replacement; training performed to enable replacement when outages are not possible.
- **Circuit 1038 –** All directional boring and turn-ups complete. Natura customers energized. Awaiting material to complete remaining work.
- Coordinating with Engineering on multiple TACTICS projects to improve reliability on circuits serving Millhopper, Kelly, and Kelly West.
- Completed lighting project at Tom Petty Park.
- Working with FDOT on major lighting upgrade along SR 222.
- In December, T&D personnel responded to 289 customer or outage tickets.

Substation & Relay

- **Parker Auto Transformers –** T-76 placed in service on December 5. Developing scope to engineer additional substation improvements.
- Multiple break-ins at Parker Substation resulting in theft of copper and station service conductors (approximately $7,500). Coordinated with security and local law enforcement.

System Control

- New FPL power purchase agreement scheduled for January 1 through February 28, 2026, providing 75 MW of capacity and transmission.
- Implemented Ambient Air Ratings (AAR) coordination and System Data Exchange (SDX) hourly data submissions, meeting FRCC and SERC requirements and timelines.

Technical Services Group

- **GIS Upgrade –** Upgrade from version 10.8 to 11.3 is 45% complete. Outside support hired to complete the upgrade; project expected to finish by March 2026.

Energy Delivery

Technical Services Group (continued)

- **Land Base Migration –** Migration from legacy SQL database to new SQL database is 60% complete.
- **AMI to OMS Integration –** 80% complete.
- **OMS Upgrade –** 75% complete. Coordinating outside assistance to migrate VM from Nutanix to VMware.
- **OMS Data Conversion –** Conversion from Geometric Network (GN) to Utility Network (UN) dataset completed (100%).
- **OMS Map Automation –** Automation of OMS map creation from GIS data is 95% complete.
- **Application Refactoring –** Crew Assignments, CAP Tracking, and Circuit Trips web applications upgraded from .NET 2 to .NET 4.8 and from .NET Core 5 to .NET Core 9 (100% complete).
- **CAMS Upgrade –** Upgrade from .NET Core 5 to .NET Core 10 is 60% complete and currently in testing.

Energy Measurement & Field Operations

Revenue Protection

- In December, the team investigated 27 damaged underground facilities.

Field Services

- In December, Field Services responded to 61 gas emergencies.

Electric Measurement

- **Generlink Socket Inspections –** 35 signed contract agreements executed; 34 Generlink switches installed.

Gas Measurement

- Completed a new gas regulating station at Oak Hammock to improve system reliability by providing a backfeed.

Gas T&D Major Projects

- Main feed for the Bridlewood Subdivision in High Springs has been tied in, tested, and pressurized.
- Continuing work to complete the tie-in for the 2-inch main in Phase 2 of the Flint Rock Subdivision on Parker Road.
- Revised GOMP manual and reclassified more than 300 emergency valves as convenience valves.
- Crews began construction activities including PE pipe fusion and boring near Wawa at US 441 and NW 173rd Street in support of the Ben E. Keith project in Alachua.
- Contribution in Aid of Construction (CIAC) collected for FY25 and FY26 totals $242,652.
- In December, 16 new gas services were installed, 11 services retired for inactivity, and 11 services re-run.In November, 19 new gas services were installed, 5 services were retired for inactivity, and 10 services were re-run.

Energy Delivery

Advanced Metering Infrastructure (AMI)

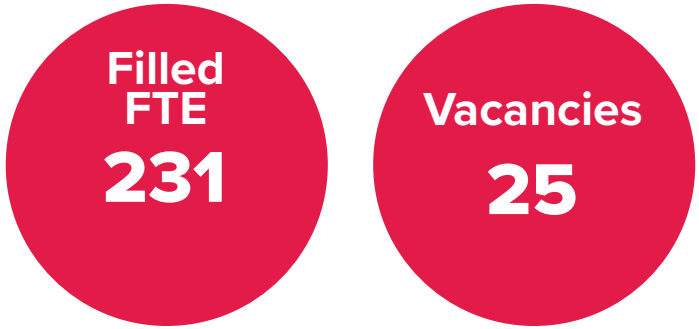
Category	Electric	Water	Natural Gas	Total
Remote Reading	104,099	70,485	32,581	**207,165**
AMI Devices	104,109	70,667	32,601	**207,377**
Non-AMI Devices	30	7,712	5,701	**13,443**
Total Devices	104,139	78,379	38,302	**220,820**
Saturation %	100.00%	90.20%	85.10%	**93.90%**

AMI Financial Summary		
Actuals Spent	$41,407,502	88.00%
Budget Remaining	$5,658,874	12.00%
Total Budget	$47,066,376	100.00%

Standard Industry Comparisons

Comparison	Actual	Goal	Description
SAIDI	3.54	4.5	System Average Interruption Duration Index
CAIDI	49.64	55	Customer Average Interruption Duration Index
SAIFI	0.07	0.08	System Average Interruption Frequency Index
ASAI	99.99%		Average Service Availability Index

Personnel



Energy Delivery

Vacancies and Retirements

Status	Title	Filled?	Group	Vacant Date
Vacant	Engineer and Utility Designer I	N	Gas Engineering	June ’24
Vacant	Field Service Technician	N	Meter Services	Feb. ’25
Vacant	Field Service Technician	N	Meter Services	Aug. ’25
Vacant	GIS and Operational Systems Coordinator	N	GIS Operations Services	March ’24
Vacant	Electrical Engineer and Utility Designer III	N	Electric Engineering	Aug. ’24
Vacant	Technical Support Specialist III	N	Electric Measurement	Jan. ’25
Vacant	Operational Technology Network Analyst Lead	N	Systems Control	Feb. ’25
Vacant	Operational Technology Network Analyst Senior	N	Systems Control	March ’25
Vacant	Principal Engineer	N	System Control Technical Operations	Aug. ’25
Vacant	Electric Measurement Technician	N	Electric Meter Measurement Operations	July ’25
Vacant	Substation Relay Engineer and Utility Designer III	N	S&R Engineer Group	June ’25
Vacant	Relay Technician	N	Relay Operations	March ’24
Vacant	Electric Line Worker	N	Electric Line Workers	Aug. ’25
Vacant	Line Worker Lead	N	Electric Line Workers	Oct. ’24
Vacant	Electric Line Worker	N	Electric Transmission & Delivery	July ’24
Vacant	Electric Line Worker	N	Electric Line Workers	Feb. ’25
Vacant	Electric Line Worker	N	Electric Line Workers	June ’25
Vacant	Principal Engineer and Utility Designer	N	Electric Engineering	Sept. ’25
Vacant	Energy Delivery Facilities Specialist II	N	Electric Engineering	Jan. ’24
Vacant	Transmission Planning Principal Engineer	N	Electric Engineering	July ’25
Vacant	Energy Delivery Facilities Specialist Supervisor	N	Electric Engineering	July ’25
Vacant	Principal Engineer and Utility Designer	N	Electric Engineering	Sept. ’25
Vacant	Energy Delivery Facilities Specialist II	N	Electric Engineering	Sept. ’25
Vacant	Energy Delivery Facilities Specialist II	N	Electric Engineering	Feb. ’25
Vacant	Energy Delivery Facilities Specialist I	N	Electric Engineering	Jan. ’26

Water/Wastewater

Production

Murphree Water Treatment Plant (Operations Normal)

		Month (mgd)	FY 26 YTD (mgd)	FY 25 (mgd)	Permitted Capacity (mgd)	FY 26 YTD % of Permitted Capacity
	Average Daily Flow	21.1	23.2	24.0	30	77%
	Max Daily Peak Flow	26.1	30.9	36.6	54	57%

Main Street Water Reclamation Facility (Operations Normal, Reclaimed Water On)

		Month (mgd)	FY 26 YTD (mgd)	FY 25 (mgd)	Permitted Capacity (mgd)	FY 26 YTD % of Permitted Capacity
	Average Daily Flow	5.0	5.3	5.4	7.5	71%
	Max Daily Peak Flow	8.4	8.5	13.1	NA	NA

Kanapaha Water Reclamation Facility (Operations Normal, Reclaimed Water On)

		Month (mgd)	FY 26 YTD (mgd)	FY 25 (mgd)	Permitted Capacity (mgd)	FY 26 YTD % of Permitted Capacity
	Average Daily Flow	9.7	10.0	10.6	14.9	67%
	Max Daily Peak Flow	17.4	18.1	19.1	NA	NA

Water/Wastewater

Environmental Compliance

Water Distribution System

	Month	FY 26 YTD	FY 25
Precautionary Boil Water Notices:	1	3	22

Wastewater Collection System

	Month	FY 26 YTD	FY 25
Sanitary Sewer Overflows (SSOs)	1	3	18
SSOs By Type:			
Residential Grease & Toiletries	1	2	6
Infrastructure		1	10
Third-Party Damage			2
Wet Weather			0
Named Storms			0

Water/Wastewater

Maintenance

Water Distribution System

	Month	FY 26 YTD	FY 25	Monthly Goal
Dispatched Water Work Orders	307	982	5,238	-
Water Leaks	122	381	2,189	-
Water Damages (by 3rd Parties)	5	41	358	-
Other Water Work Orders	180	560	2,691	-
Water Valve Exercising Program	165	491	460	-
** New program for FY 26*				
Number of Water Services Replaced	76	222	1,058	83
Feet of Water Main Replaced	312	2,149	24,652	2,200

Wastewater Collection System

	Month	FY 26 YTD	FY 25	Monthly Goal
Dispatched Sewer Work Orders	96	258	860	-
Sewer Stoppages	20	55	202	-
Sewer Damages (by 3rd Parties)	3	17	62	-
Other Sewer Work Orders	73	186	596	-
SWAMP Program				
Miles of Gravity Main Inspected	1.7	16.6	154	-
Number of Manholes Inspected	52	376	3,833	-

Reclaimed Distribution System

	Month	FY 26 YTD	FY 25	Monthly Goal
Dispatched Reclaim Work Orders	3	18	115	-
Reclaim Leaks	1	6	20	-
Reclaim Water Damages (by 3rd Parties)		1	4	-
Other Reclaim Work Orders	2	11	91	-

Water/Wastewater

Major Projects

Water Distribution

- **NE 9th Street Water Main Improvements –** Construction underway.

Water Distribution / Wastewater Collection

- **SW 13th Street (DNA Bridge) –** Construction underway.

Wastewater Collection

- **Fort Clarke Boulevard Gravity Main Improvements –** Construction underway.

Main Street Water Reclamation Facility

- Construction continues on Phase 1. Installation of new piping and equipment in the new headworks facility is underway, with electrical conduits currently being run to equipment.

Kanapaha Water Reclamation Facility

- Work is underway to replace valves and actuators at Chapman's Pond to improve effluent disposal operations.

Lift Stations

- **Lift Station No. 1** – Electrical equipment installation is in progress, with conductors being run inside the electrical building.

Murphree Water Treatment Plant

- Work is underway on installation of a new hatch on the washwater drain facility in preparation for scheduled pipe lining.

Water/Wastewater

Vacancies and Retirements

Status	Title	Filled?	Group	Vacant Date
Vacant - Posting Soon	Service Operator	N	Water Distribution	Oct. ‘25
Hire from Eligbilty List	Service Operator	N	Water Distribution	Dec. ‘25
Job Posted	Piping Engineer 1-4	N	W/WW Engineering	June ‘25
Candidate Selected	Wastewater ICE Tech	N	Water Reclamations	Nov. ‘24
Candidate Selected	Wastewater ICE Tech	N	Water Reclamations	July ‘25
Vacant - Posting Soon	GIS/OS Tech	N	Wastewater Collection	Nov. ‘25
Vacant - Posting Soon	Service Operator	N	Wastewater Collection	Oct. ‘25
Vacant - Posting Soon	GIS/OS Specialist I	N	Wastewater Collection	July ‘25

Personnel

Safety & Training

Safety Data

Month Injury Statistics

Department	First Aid Given	Recordable Injuries	DART*
Administration	0	0	0
W/WW	0	1	0
Energy Supply	0	0	0
Energy Delivery & Gas	0	0	0
GRUCom	0	0	0
Total	**0**	**1**	**0**

***DART:** Days away, restricted or transferred.

Fiscal YTD Injury Statistics

Department	First Aid Given	Recordable Injuries	DART
Administration	0	0	0
W/WW	0	3	0
Energy Supply	0	0	0
Energy Delivery & Gas	0	1	7
GRUCom	0	0	0
Total	**0**	**4**	**0**

Safety & Training

Month Vehicle Collisions & Miles Driven

Department	Miles Driven	Recordable Collisions	Preventable Collisions
Administration	6,339	0	0
W/WW	64,996	1	0
Energy Supply	1,933	0	0
Energy Delivery & Gas	86,027	0	0
GRUCom	4,185	0	0
Total	**163,450**	**1**	**0**

Fiscal YTD Vehicle Collisions & Miles Driven

Department	Miles Driven	Recordable Collisions	Preventable Collisions
Administration	19,664	0	0
W/WW	190,447	4	0
Energy Supply	6,683	0	0
Energy Delivery & Gas	251,644	1	0
GRUCom	14,031	1	0
Total	**482,469**	**6**	**0**

Safety & Training

Monthly Injury, Collision & DART Summaries

Injury & DART Details

- (DART) Dec. 1: Employee placed on restrictions due to citizen collision with vehicle.
- Dec. 29: Employee rubbed dirt in eye from fingers.

Collision Details

- Dec. 15: GRU vehicle rear-ended at traffic light.

Customer Operations

Revenue Assurance

Referred to Collections
$197,031.32
FYTD: $1,022,673.04

Funds Collected
$89,542.70
FYTD: $277,364.51

Bankruptcies
$2,488.68
FYTD: $6,857.90

Prior Indebtedness Funds Collected
$25,925.08
FYTD: $67,060.41

Disconnections
2,290

Reconnections
2,275

Billing & Customer Solutions

- Invoicing rating: **99.88%**
- Meter rereads: **57**
- Locked reads: **6,686**
- Solar invoicing rating: **100%**
- Processed emails: **1,924/1,859 (103%)**

Customer Experience

Transactional Survey
4.1

Lobby Survey
4.9

Customer Operations

New Services

Building Permit Reviews	229

Active Projects	Amount
City	191
County	38

New Installations	Amount
Electric	47
Water	44
Wastewater	41
Gas	3

Solar Reviews	Amount
Plan Reviews	11
PVs Completed on Time	11
PV Installations	14
Avg. Handle Time (in Weeks)	3.71

Customer Operations

Customer Service

Answer Speed

Call Type	Actual	FYTD	Goal
Residential & Non-residential	1:27	2:17	5:00

Handle Time

Call Type	Actual	FYTD	Goal
Residential & Non-residential	7:23	5:42	7:00

Total Calls
11,439

Other Statistics

Payments Returned
840
$315,688.73

Lobby Visits
3,171

Project Share
$3999.67

Social Service Vouchers
109
$58,524.71

Customer Operations

Payment Type Details

Payment Type	Transactions	Transactions FYTD	$ Amount	$ Amount FYTD
Drop Box	1,392	2,793	$1,097,010.49	$97,887,948.05
Mailed	17,520	47,035	$15,426,773.83	$42,205,177.78
Office Payment	152	220	$30,289.28	$83,270.49
Drive Thru	3,975	10,988	$2,620,041.85	$7,236,359.02
Kubra Cash	39	691	$14,732.68	$133,194.45
Check Free	1,786	14,557	$474,319.10	$5,228,423.86
Kubra ACH	17,971	54,612	$5,356,929.40	$17,856,606.54
Collection Agency	39	139	$14,732.68	$49,013.36
Kubra CC/EZPAY	17,971	73,125	$5,356,929.40	$15,948,091.87
Lobby Walk-Ins	2,440	7,097	$1,027,782.31	$3,598,252.39
Direct Debit	34,650	98,261	$9,570,829.06	$29,246,262.83

Customer Operations

Energy & Business Services

Residential Surveys	20
Commercial Surveys	5
LEEP*plus* Applications Received	16
LEEP*plus* Pre-inspections	5
LEEP*plus* Completed Homes	1

FY26
December
State of the Utility

File Number: 2026-123

Agenda Date: February 18, 2026

Department: Gainesville Regional Utilities

Title: 22026-123 Review and Readoption of the State of Florida Code of Ethics for the GRU Authority (B)

Department: Gainesville Regional Utilities/General Counsel

Description: The Authority is required to review its code of ethics policy biennially pursuant to Art. 7.10(7). It is standard practice for public boards to adopt the State of Florida Code of Ethics.

At its November 1, 2023 meeting, the Authority adopted the 2023 State of Florida Code of Ethics. The Authority here is presented with the 2025 State of Florida Code of Ethics (most recent).

Fiscal Note: None.

Recommendation: The GRU Authority review its ethics policy and adopt the State of Florida Code of Ethics.

FLORIDA COMMISSION ON ETHICS

GUIDE
to the
SUNSHINE AMENDMENT
and
CODE of ETHICS
for Public Officers and Employees

2025

State of Florida

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*Please direct all requests for information to this number.

TABLE OF CONTENTS

I. HISTORY OF FLORIDA'S ETHICS LAWS

Florida has been a leader among the states in establishing ethics standards for public officials and recognizing the right of citizens to protect the public trust against abuse. Our state Constitution was revised in 1968 to require a code of ethics, prescribed by law, for all state employees and non-judicial officers prohibiting conflict between public duty and private interests.

Florida's first successful constitutional initiative resulted in the adoption of the Sunshine Amendment in 1976, providing additional constitutional guarantees concerning ethics in government. In the area of enforcement, the Sunshine Amendment requires that there be an independent commission (the Commission on Ethics) to investigate complaints concerning breaches of public trust by public officers and employees other than judges.

The Code of Ethics for Public Officers and Employees is found in Chapter 112 (Part III) of the Florida Statutes. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. The Code is also intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law. While seeking to protect the integrity of government, the Code also seeks to avoid the creation of unnecessary barriers to public service.

Criminal penalties, which initially applied to violations of the Code, were eliminated in 1974 in favor of administrative enforcement. The Legislature created the Commission on Ethics that year "to serve as guardian of the standards of conduct" for public officials, state and local. Five of the Commission's nine members are appointed by the Governor, and two each are appointed by the President of the Senate and Speaker of the House of Representatives. No more than five Commission members may be members of the same political party, and none may be lobbyists, or hold any public employment during their two-year terms of office. A chair is selected from among the members to serve a one-year term and may not succeed himself or herself.

II. ROLE OF THE COMMISSION ON ETHICS

In addition to its constitutional duties regarding the investigation of complaints, the Commission:

- Renders advisory opinions to public officials;
- Prescribes forms for public disclosure;
- Prepares mailing lists of public officials subject to financial disclosure for use in distributing forms and notifying delinquent filers;
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws, since it does not impose penalties;
- Administers the Executive Branch Lobbyist Registration and Reporting Law;
- Maintains financial disclosure filings of constitutional officers and state officers and employees; and,
- Administers automatic fines for public officers and employees who fail to timely file required annual financial disclosure.

III. THE ETHICS LAWS

The ethics laws generally consist of two types of provisions, those prohibiting certain actions or conduct and those requiring that certain disclosures be made to the public. The following descriptions of these laws have been simplified in an effort to provide notice of their requirements. Therefore, we suggest that you also review the wording of the actual law. Citations to the appropriate laws are in brackets.

The laws summarized below apply generally to all public officers and employees, state and local, including members of advisory bodies. The principal exception to this broad coverage is the exclusion of judges, as they fall within the jurisdiction of the Judicial Qualifications Commission.

Public Service Commission (PSC) members and employees, as well as members of the PSC Nominating Council, are subject to additional ethics standards that are enforced by the Commission

on Ethics under Chapter 350, Florida Statutes. Further, members of the governing boards of charter schools are subject to some of the provisions of the Code of Ethics [Sec. 1002.33(26), Fla. Stat.], as are the officers, directors, chief executive officers and some employees of business entities that serve as the chief administrative or executive officer or employee of a political subdivision. [Sec. 112.3136, Fla. Stat.].

A. PROHIBITED ACTIONS OR CONDUCT

1. Solicitation and Acceptance of Gifts

Public officers, employees, local government attorneys, and candidates are prohibited from soliciting or accepting anything of value, such as a gift, loan, reward, promise of future employment, favor, or service, that is based on an understanding that their vote, official action, or judgment would be influenced by such gift. [Sec. 112.313(2), Fla. Stat.]

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** any gift from a political committee, lobbyist who has lobbied the official or his or her agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist or from a vendor doing business with the official's agency. [Sec. 112.3148, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees are prohibited from directly or indirectly **accepting** a gift worth more than $100 from such a lobbyist, from a partner, firm, employer, or principal of the lobbyist, or from a political committee or vendor doing business with their agency. [Sec.112.3148, Fla. Stat.]

However, notwithstanding Sec. 112.3148, Fla. Stat., no Executive Branch lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] Typically, this would include gifts valued at less than $100 that formerly were permitted under Section 112.3148, Fla. Stat. Similar rules apply to members and employees of

the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

Also, persons required to file Form 1 or Form 6, and state procurement employees and members of their immediate families, are prohibited from accepting any gift from a political committee. [Sec. 112.31485, Fla. Stat.]

2. Unauthorized Compensation

Public officers or employees, local government attorneys, and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when they know, or with the exercise of reasonable care should know, that it is given to influence a vote or other official action. [Sec. 112.313(4), Fla. Stat.]

3. Misuse of Public Position

Public officers and employees, and local government attorneys are prohibited from corruptly using or attempting to use their official positions or the resources thereof to obtain a special privilege or benefit for themselves or others. [Sec. 112.313(6), Fla. Stat.]

4. Abuse of Public Position

Public officers and employees are prohibited from abusing their public positions in order to obtain a disproportionate benefit for themselves or certain others. [Article II, Section 8(h), Florida Constitution.]

5. Disclosure or Use of Certain Information

Public officers and employees and local government attorneys are prohibited from disclosing or using information not available to the public and obtained by reason of their public position, for the personal benefit of themselves or others. [Sec. 112.313(8), Fla. Stat.]

6. Solicitation or Acceptance of Honoraria

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** honoraria related to their public offices or duties. [Sec. 112.3149, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees, are prohibited from knowingly **accepting** an honorarium from a political committee, lobbyist who has lobbied the person's agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist, or from a vendor doing business with the official's agency. However, they may accept the payment of expenses related to an honorarium event from such individuals or entities, provided that the expenses are disclosed. See Part III F of this brochure. [Sec. 112.3149, Fla. Stat.]

Lobbyists and their partners, firms, employers, and principals, as well as political committees and vendors, are prohibited from **giving** an honorarium to persons required to file FORM 1 or FORM 6 and to state procurement employees. Violations of this law may result in fines of up to $5,000 and prohibitions against lobbying for up to two years. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no Executive Branch or legislative lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] This may include honorarium event related expenses that formerly were permitted under Sec. 112.3149, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

B. PROHIBITED EMPLOYMENT AND BUSINESS RELATIONSHIPS

1. Doing Business With One's Agency

a) A public employee acting as a purchasing agent, or public officer acting in an official capacity, is prohibited from purchasing, renting, or leasing any realty, goods, or

services for his or her agency from a business entity in which the officer or employee or his or her spouse or child owns more than a 5% interest. [Sec. 112.313(3), Fla. Stat.]

b) A public officer or employee, acting in a private capacity, also is prohibited from renting, leasing, or selling any realty, goods, or services to his or her own agency if the officer or employee is a state officer or employee, or, if he or she is an officer or employee of a political subdivision, to that subdivision or any of its agencies. [Sec. 112.313(3), Fla. Stat.]

2. Conflicting Employment or Contractual Relationship

a) A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. [Sec. 112.313(7), Fla. Stat.]

b) A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. [Sec. 112.313(7), Fla. Stat.]

c) Limited exceptions to this prohibition have been created in the law for legislative bodies, certain special tax districts, drainage districts, and persons whose professions or occupations qualify them to hold their public positions. [Sec. 112.313(7)(a) and (b), Fla. Stat.]

3. Exemptions—Pursuant to Sec. 112.313(12), Fla. Stat., the prohibitions against doing business with one's agency and having conflicting employment may not apply:

a) When the business is rotated among all qualified suppliers in a city or county.

b) When the business is awarded by sealed, competitive bidding and neither the official nor his or her spouse or child have attempted to persuade agency personnel to enter

the contract. NOTE: Disclosure of the interest of the official, spouse, or child and the nature of the business must be filed prior to or at the time of submission of the bid on Commission FORM 3A with the Commission on Ethics or Supervisor of Elections, depending on whether the official serves at the state or local level.

c) When the purchase or sale is for legal advertising, utilities service, or for passage on a common carrier.

d) When an emergency purchase must be made to protect the public health, safety, or welfare.

e) When the business entity is the only source of supply within the political subdivision and there is full disclosure of the official's interest to the governing body on Commission FORM 4A.

f) When the aggregate of any such transactions does not exceed $500 in a calendar year.

g) When the business transacted is the deposit of agency funds in a bank of which a county, city, or district official is an officer, director, or stockholder, so long as agency records show that the governing body has determined that the member did not favor his or her bank over other qualified banks.

h) When the prohibitions are waived in the case of ADVISORY BOARD MEMBERS by the appointing person or by a two-thirds vote of the appointing body (after disclosure on Commission FORM 4A).

i) When the public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

j) When the public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency where the price and terms of the transaction are available to similarly situated members of

the general public and the officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

4. Additional Exemptions

No elected public officer is in violation of the conflicting employment prohibition when employed by a tax exempt organization contracting with his or her agency so long as the officer is not directly or indirectly compensated as a result of the contract, does not participate in any way in the decision to enter into the contract, abstains from voting on any matter involving the employer, and makes certain disclosures. [Sec. 112.313(15), Fla. Stat.]

5. Legislators Lobbying State Agencies

A member of the Legislature is prohibited from representing another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals. [Art. II, Sec. 8(e), Fla. Const., and Sec. 112.313(9), Fla. Stat.]

6. Additional Lobbying Restrictions for Certain Public Officers and Employees

A statewide elected officer; a member of the legislature; a county commissioner; a county officer pursuant to Article VIII or county charter; a school board member; a superintendent of schools; an elected municipal officer; an elected special district officer in a special district with ad valorem taxing authority; or a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby for compensation on issues of policy, appropriations, or procurement before the federal government, the legislature, any state government body or agency, or any political subdivision of this state, during his or her term of office. [Art. II Sec 8(f)(2), Fla. Const. and Sec. 112.3121, Fla. Stat.]

7. Employees Holding Office

A public employee is prohibited from being a member of the governing body which serves as his or her employer. [Sec. 112.313(10), Fla. Stat.]

8. Professional and Occupational Licensing Board Members

An officer, director, or administrator of a state, county, or regional professional or occupational organization or association, while holding such position, may not serve as a member of a state examining or licensing board for the profession or occupation. [Sec. 112.313(11), Fla. Stat.]

9. Contractual Services: Prohibited Employment

A state employee of the executive or judicial branch who participates in the decision-making process involving a purchase request, who influences the content of any specification or procurement standard, or who renders advice, investigation, or auditing, regarding his or her agency's contract for services, is prohibited from being employed with a person holding such a contract with his or her agency. [Sec. 112.3185(2), Fla. Stat.]

10. Local Government Attorneys

Local government attorneys, such as the city attorney or county attorney, and their law firms are prohibited from representing private individuals and entities before the unit of local government which they serve. A local government attorney cannot recommend or otherwise refer to his or her firm legal work involving the local government unit unless the attorney's contract authorizes or mandates the use of that firm. [Sec. 112.313(16), Fla. Stat.]

11. Dual Public Employment

Candidates and elected officers are prohibited from accepting public employment if they know or should know it is being offered for the purpose of influence. Further, public employment may not be accepted unless the position was already in existence or was created without the anticipation of the official's interest, was publicly advertised, and the officer had to meet the same qualifications and go through the same hiring process as other applicants. For elected public officers already holding public employment, no promotion given for the purpose of influence may be accepted, nor may promotions that are inconsistent with those given other similarly situated employees. [Sec. 112.3125, Fla. Stat.]

C. RESTRICTIONS ON APPOINTING, EMPLOYING, AND CONTRACTING WITH RELATIVES

1. Anti-Nepotism Law

A public official is prohibited from seeking for a relative any appointment, employment, promotion, or advancement in the agency in which he or she is serving or over which the official exercises jurisdiction or control. No person may be appointed, employed, promoted, or advanced in or to a position in an agency if such action has been advocated by a related public official who is serving in or exercising jurisdiction or control over the agency; this includes relatives of members of collegial government bodies. NOTE: This prohibition does not apply to school districts (except as provided in Sec. 1012.23, Fla. Stat.), community colleges and state universities, or to appointments of boards, other than those with land-planning or zoning responsibilities, in municipalities of fewer than 35,000 residents. Also, the approval of budgets does not constitute "jurisdiction or control" for the purposes of this prohibition. This provision does not apply to volunteer emergency medical, firefighting, or police service providers. [Sec. 112.3135, Fla. Stat.]

2. Additional Restrictions

A state employee of the executive or judicial branch or the PSC is prohibited from directly or indirectly procuring contractual services for his or her agency from a business entity of which a relative is an officer, partner, director, or proprietor, or in which the employee, or his or her spouse, or children own more than a 5% interest. [Sec. 112.3185(6), Fla. Stat.]

D. POST OFFICE HOLDING AND EMPLOYMENT (REVOLVING DOOR) RESTRICTIONS

1. Lobbying by Former Legislators, Statewide Elected Officers, and Appointed State Officers

A member of the Legislature or a statewide elected or appointed state official is prohibited for two years following vacation of office from representing another person or entity for compensation before the government body or agency of which the individual was an officer or member. Former members of the Legislature are also prohibited for two years from lobbying the executive branch. [Art. II, Sec. 8(e), Fla. Const. and Sec. 112.313(9), Fla. Stat.]

2. Lobbying by Former State Employees

Certain employees of the executive and legislative branches of state government are prohibited from personally representing another person or entity for compensation before the agency with which they were employed for a period of two years after leaving their positions, unless employed by another agency of state government. [Sec. 112.313(9), Fla. Stat.] These employees include the following:

a) Executive and legislative branch employees serving in the Senior Management Service and Selected Exempt Service, as well as any person employed by the Department of the Lottery having authority over policy or procurement.

b) serving in the following position classifications: the Auditor General; the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA); the Sergeant at Arms and Secretary of the Senate; the Sergeant at Arms and Clerk of the House of Representatives; the executive director and deputy executive director of the Commission on Ethics; an executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, legislative analyst, or attorney serving in the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, the Senate Minority Party Office, the House Majority Party Office, or the House Minority Party Office; the Chancellor and Vice-Chancellors of the State University System; the general counsel to the Board of Regents; the president, vice presidents, and deans of each state university; any person hired on a contractual basis and having the power normally conferred upon such persons, by whatever title; and any person having the power normally conferred upon the above positions.

This prohibition does not apply to a person who was employed by the Legislature or other agency prior to July 1, 1989; who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994; or who reached normal retirement age and retired by July 1, 1991. It does apply to OPS employees.

PENALTIES: Persons found in violation of this section are subject to the penalties contained in the Code (see PENALTIES, Part V) as well as a civil penalty in an amount equal to the compensation which the person received for the prohibited conduct. [Sec. 112.313(9)(a)5, Fla. Stat.]

3. 6-Year Lobbying Ban

For a period of six years after vacation of public position occurring on or after December 31, 2022, a statewide elected officer or member of the legislature shall not lobby for compensation on issues of policy, appropriations, or procurement before the legislature or any state government body or agency. [Art. II Sec 8(f)(3)a., Fla. Const. and Sec. 112.3121, Fla. Stat.]

For a period of six years after vacation of public position occurring on or after December 31, 2022, a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby for compensation on issues of policy, appropriations, or procurement before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department. [Art. II Sec 8(f)(3)b., Fla. Const. and Sec. 112.3121, Fla. Stat.]

For a period of six years after vacation of public position occurring on or after December 31, 2022, a county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority shall not lobby for compensation on issues of policy, appropriations, or procurement before his or her former agency or governing body. [Art. II Sec 8(f)(3)c., Fla. Const. and Sec. 112.3121, Fla. Stat.]

4. Additional Restrictions on Former State Employees

A former executive or judicial branch employee or PSC employee is prohibited from having employment or a contractual relationship, at any time after retirement or termination of employment, with any business entity (other than a public agency) in connection with a contract in which the employee participated personally and substantially by recommendation or decision while a public employee. [Sec. 112.3185(3), Fla. Stat.]

A former executive or judicial branch employee or PSC employee who has retired or terminated employment is prohibited from having any employment or contractual relationship for two years with any business entity (other than a public agency) in connection with a contract for services which was within his or her responsibility while serving as a state employee. [Sec.112.3185(4), Fla. Stat.]

Unless waived by the agency head, a former executive or judicial branch employee or PSC employee may not be paid more for contractual services provided by him or her to the former agency during the first year after leaving the agency than his or her annual salary before leaving. [Sec. 112.3185(5), Fla. Stat.]

These prohibitions do not apply to PSC employees who were so employed on or before Dec. 31, 1994.

5. Lobbying by Former Local Government Officers and Employees

A person elected to county, municipal, school district, or special district office is prohibited from representing another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office. Appointed officers and employees of counties, municipalities, school districts, and special districts may be subject to a similar restriction by local ordinance or resolution. [Sec. 112.313(13) and (14), Fla. Stat.]

E. VOTING CONFLICTS OF INTEREST

State public officers are prohibited from voting in an official capacity on any measure which they know would inure to their own special private gain or loss. A state public officer who abstains, or who votes on a measure which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, must make every reasonable effort to file a memorandum of voting conflict with the recording secretary in advance of the vote. If that is not possible, it must be filed within 15 days after the vote occurs. The memorandum must disclose the nature of the officer's interest in the matter.

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss, or which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate. The officer must publicly announce the nature of his or her interest before the vote and must file a memorandum of voting conflict on Commission Form 8B with the meeting's recording officer within 15 days after the vote occurs disclosing the nature of his or her interest in the matter. However, members of community redevelopment agencies and district officers elected on a one-acre, one-vote basis are not required to abstain when voting in that capacity.

No appointed state or local officer shall participate in any matter which would inure to the officer's special private gain or loss, the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, without first disclosing the nature of his or her interest in the matter. The memorandum of voting conflict (Commission Form 8A or 8B) must be filed with the meeting's recording officer, be provided to the other members of the agency, and be read publicly at the next meeting.

If the conflict is unknown or not disclosed prior to the meeting, the appointed official must orally disclose the conflict at the meeting when the conflict becomes known. Also, a written memorandum of voting conflict must be filed with the meeting's recording officer within 15 days of the disclosure being made and must be provided to the other members of the agency, with the disclosure being read publicly at the next scheduled meeting. [Sec. 112.3143, Fla. Stat.]

F. DISCLOSURES

Conflicts of interest may occur when public officials are in a position to make decisions that affect their personal financial interests. This is why public officers and employees, as well as candidates who run for public office, are required to publicly disclose their financial interests. The disclosure process serves to remind officials of their obligation to put the public interest above personal considerations. It also helps citizens to monitor the considerations of those who spend their tax dollars and participate in public policy decisions or administration.

All public officials and candidates do not file the same degree of disclosure; nor do they all file at the same time or place. Thus, care must be taken to determine which disclosure forms a particular official or candidate is required to file.

The following forms are described below to set forth the requirements of the various disclosures and the steps for correctly providing the information in a timely manner.

1. FORM 1 - Limited Financial Disclosure

Who Must File:

Persons required to file FORM 1 include all state officers, local officers, candidates for local elective office, and specified state employees as defined below (other than those officers who are required by law to file FORM 6).

STATE OFFICERS include:

1) Elected public officials not serving in a political subdivision of the state and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.

2) Appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding members of solely advisory bodies; but including judicial nominating commission members; directors of Enterprise Florida, Scripps Florida Funding Corporation, and CareerSource Florida, and members of the Council on the Social Status of Black Men and Boys; the Executive Director, governors, and senior managers of Citizens Property Insurance Corporation; governors and senior managers of Florida Workers' Compensation Joint Underwriting Association, board members of the Northeast Florida Regional Transportation Commission, and members of the board of Triumph Gulf Coast, Inc.; members of the board of Florida is

for Veterans, Inc.; and members of the Technology Advisory Council within the Agency for State Technology.

3) The Commissioner of Education, members of the State Board of Education, the Board of Governors, local boards of trustees and presidents of state universities, and members of the Florida Prepaid College Board.

LOCAL OFFICERS include:

1) Persons elected to office in any political subdivision (such as municipalities, counties, and special districts) and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.

2) Appointed members of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision: the governing body of the subdivision; a community college or junior college district board of trustees; a board having the power to enforce local code provisions; a planning or zoning board, board of adjustments or appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and similar groups who only have the power to make recommendations to planning or zoning boards, except for representatives of a military installation acting on behalf of all military installations within that jurisdiction; a pension board or retirement board empowered to invest pension or retirement funds or to determine entitlement to or amount of a pension or other retirement benefit.

3) Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.

4) Persons holding any of these positions in local government: county or city manager; chief administrative employee or finance director of a county, municipality, or other

political subdivision; county or municipal attorney; chief county or municipal building inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; appointed district school superintendent; community college president; district medical examiner; purchasing agent (regardless of title) having the authority to make any purchase exceeding $35,000 for the local governmental unit.

5) Members of governing boards of charter schools operated by a city or other public entity.

6) The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision. [Sec. 112.3136, Fla. Stat.]

SPECIFIED STATE EMPLOYEE includes:

1) Employees in the Office of the Governor or of a Cabinet member who are exempt from the Career Service System, excluding secretarial, clerical, and similar positions.

2) The following positions in each state department, commission, board, or council: secretary or state surgeon general, assistant or deputy secretary, executive director, assistant or deputy executive director, and anyone having the power normally conferred upon such persons, regardless of title.

3) The following positions in each state department or division: director, assistant or deputy director, bureau chief, assistant bureau chief, and any person having the power normally conferred upon such persons, regardless of title.

4) Assistant state attorneys, assistant public defenders, criminal conflict and civil regional counsel, assistant criminal conflict and civil regional counsel, public counsel, full-time state employees serving as counsel or assistant counsel to a state agency, judges of compensation claims, administrative law judges, and hearing officers.

5) The superintendent or director of a state mental health institute established for training and research in the mental health field, or any major state institution or facility established for corrections, training, treatment, or rehabilitation.

6) State agency business managers, finance and accounting directors, personnel officers, grant coordinators, and purchasing agents (regardless of title) with power to make a purchase exceeding $35,000.

7) The following positions in legislative branch agencies: each employee (other than those employed in maintenance, clerical, secretarial, or similar positions and legislative assistants exempted by the presiding officer of their house); and each employee of the Commission on Ethics.

What Must Be Disclosed:

FORM 1 requirements are set forth fully on the form. In general, this includes the reporting person's sources and types of financial interests, such as the names of employers and addresses of real property holdings. NO DOLLAR VALUES ARE REQUIRED TO BE LISTED. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When to File:

CANDIDATES for elected local office must file FORM 1 or a verification of filing in EFDMS together with and at the same time they file their qualifying papers. Candidates for City Council or Mayor must file a Form 6 or a verification of filing in EFDMS.[1]

[1] During the pendency of ongoing litigation, the Commission on Ethics is enjoined from enforcing the Form 6 requirement for mayors and elected members of municipal governing bodies, and they will have to file a CE Form 1 ("Statement of Financial Interest").

STATE and LOCAL OFFICERS and SPECIFIED STATE EMPLOYEES are required to file disclosure by July 1 of each year. They also must file within thirty days from the date of appointment or the beginning of employment. Those appointees requiring Senate confirmation must file prior to confirmation.

Where to File:

File with the Commission on Ethics. [Sec. 112.3145, Fla. Stat.]

Beginning January 1, 2024, all Form 1 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable by name or organization on the Commission's website.

2. FORM 1F - Final Form 1 Limited Financial Disclosure

FORM 1F is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 1 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

3. FORM 2 - Quarterly Client Disclosure

The state officers, local officers, and specified state employees listed above, as well as elected constitutional officers, must file a FORM 2 if they or a partner or associate of their professional firm represent a client for compensation before an agency at their level of government.

A FORM 2 disclosure includes the names of clients represented by the reporting person or by any partner or associate of his or her professional firm for a fee or commission before agencies at the reporting person's level of government. Such representations do not include appearances in ministerial matters, appearances before judges of compensation claims, or representations on behalf of one's agency in one's official capacity. Nor does the term include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license, so long as the

issuance of the license does not require a variance, special consideration, or a certificate of public convenience and necessity.

When to File:

This disclosure should be filed quarterly, by the end of the calendar quarter following the calendar quarter during which a reportable representation was made. FORM 2 need not be filed merely to indicate that no reportable representations occurred during the preceding quarter; it should be filed ONLY when reportable representations were made during the quarter.

Where To File:

File with the Commission on Ethics. [Sec. 112.3145(4), Fla. Stat.]

Beginning January 1, 2024, all Form 2 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable on the Commission's website.

4. FORM 6 - Full and Public Disclosure

Who Must File:

Persons required by law to file FORM 6 include all elected constitutional officers and candidates for such office; the mayor and members of a city council and candidates for these offices[2]; the Duval County Superintendent of Schools; judges of compensation claims (pursuant to Sec. 440.442, Fla. Stat.); members of the Florida Housing Finance Corporation Board and members of expressway authorities, transportation authorities (except the Jacksonville Transportation Authority), bridge authority, or toll authorities created pursuant to Ch. 348 or 343, or 349, or other general law.

[2] During the pendency of ongoing litigation, the Commission on Ethics is enjoined from enforcing the Form 6 requirement for mayors and elected members of municipal governing bodies, and they will have to file a CE Form 1 ("Statement of Financial Interest").

What Must be Disclosed:

FORM 6 is a detailed disclosure of assets, liabilities, and sources of income over $1,000 and their values, as well as net worth. Officials may opt to file their most recent income tax return in lieu of listing sources of income but still must disclose their assets, liabilities, and net worth. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When and Where To File:

Officials must file FORM 6 annually by July 1 with the Commission on Ethics.

Beginning January 1, 2023, all Form 6 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable by name and organization on the Commission's website.

CANDIDATES who do not currently hold a position requiring the filing of a Form 1 or Form 6 must register and use the electronic filing system to complete the Form 6, then print and file the disclosure with the officer before whom they qualify at the time of qualifying. [Art. II, Sec. 8(a) and (i), Fla. Const., and Sec. 112.3144, Fla. Stat.]

5. FORM 6F - Final Form 6 Full and Public Disclosure

This is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 6 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

6. FORM 9 - Quarterly Gift Disclosure

Each person required to file FORM 1 or FORM 6, and each state procurement employee, must file a FORM 9, Quarterly Gift Disclosure, with the Commission on Ethics no later than the last day of any calendar quarter following the calendar quarter in which he or she received a gift worth more

than $100, other than gifts from relatives, gifts prohibited from being accepted, gifts primarily associated with his or her business or employment, and gifts otherwise required to be disclosed. FORM 9 NEED NOT BE FILED if no such gift was received during the calendar quarter.

Information to be disclosed includes a description of the gift and its value, the name and address of the donor, the date of the gift, and a copy of any receipt for the gift provided by the donor. [Sec. 112.3148, Fla. Stat.]

7. FORM 10 - Annual Disclosure of Gifts from Government Agencies and Direct-Support Organizations and Honorarium Event Related Expenses

State government entities, airport authorities, counties, municipalities, school boards, water management districts, and the South Florida Regional Transportation Authority, may give a gift worth more than $100 to a person required to file FORM 1 or FORM 6, and to state procurement employees, if a public purpose can be shown for the gift. Also, a direct-support organization for a governmental entity may give such a gift to a person who is an officer or employee of that entity. These gifts are to be reported on FORM 10, to be filed by July 1.

The governmental entity or direct-support organization giving the gift must provide the officer or employee with a statement about the gift no later than March 1 of the following year. The officer or employee then must disclose this information by filing a statement by July 1 with his or her annual financial disclosure that describes the gift and lists the donor, the date of the gift, and the value of the total gifts provided during the calendar year. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3148, Fla. Stat.]

In addition, a person required to file FORM 1 or FORM 6, or a state procurement employee, who receives expenses or payment of expenses related to an honorarium event from someone who is prohibited from giving him or her an honorarium, must disclose annually the name, address, and affiliation of the donor, the amount of the expenses, the date of the event, a description of the expenses paid or provided, and the total value of the expenses on FORM 10. The donor paying the expenses must provide the officer or employee with a statement about the expenses within 60 days of the honorarium event.

The disclosure must be filed by July 1, for expenses received during the previous calendar year. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no executive branch or legislative lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, any expenditure made for the purpose of lobbying. This may include gifts or honorarium event related expenses that formerly were permitted under Sections 112.3148 and 112.3149. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts, which include anything not primarily related to political activities authorized under ch. 106, are prohibited from political committees. [Sec. 112.31485 Fla. Stat.]

8. FORM 30 - Donor's Quarterly Gift Disclosure

As mentioned above, the following persons and entities generally are prohibited from giving a gift worth more than $100 to a reporting individual (a person required to file FORM 1 or FORM 6) or to a state procurement employee: a political committee; a lobbyist who lobbies the reporting individual's or procurement employee's agency, and the partner, firm, employer, or principal of such a lobbyist; and vendors. If such person or entity makes a gift worth between $25 and $100 to a reporting individual or state procurement employee (that is not accepted in behalf of a governmental entity or charitable organization), the gift should be reported on FORM 30. The donor also must notify the recipient at the time the gift is made that it will be reported.

The FORM 30 should be filed by the last day of the calendar quarter following the calendar quarter in which the gift was made. If the gift was made to an individual in the legislative branch, FORM 30 should be filed with the Lobbyist Registrar. [See page 35 for address.] If the gift was to any other reporting individual or state procurement employee, FORM 30 should be filed with the Commission on Ethics.

However, notwithstanding Section 112.3148, Fla. Stat., no executive branch lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, any expenditure made for the purpose of lobbying. This may include gifts that formerly were permitted under Section 112.3148. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts from political committees are prohibited. [Sec. 112.31485, Fla. Stat.]

9. FORM 1X AND FORM 6X - Amendments to Form 1 and Form 6

These forms are provided for officers or employees to amend their previously filed Form 1 or Form 6.

IV. AVAILABILITY OF FORMS

Beginning January 1, 2024, LOCAL OFFICERS and EMPLOYEES, and OTHER STATE OFFICERS, and SPECIFIED STATE EMPLOYEES who must file FORM 1 annually must file electronically via the Commission's Electronic Financial Disclosure Management System (EFDMS). Paper forms will not be promulgated. Communications regarding the annual filing requirement will be sent via email to filers no later than June 1. Filers must maintain an updated email address in their User Profile in EFDMS.

ELECTED CONSTITUTIONAL OFFICERS and other officials who must file Form 6 annually, including City Commissioners and Mayors[3], must file electronically via the Commission's Electronic Financial Disclosure Management System (EFDMS). Paper forms will not be promulgated. Communications regarding the annual filing requirement will be sent via email to filers no later than June 1. Filers must maintain an updated email address in their User Profile in EFDMS.

[3] During the pendency of ongoing litigation, the Commission on Ethics is enjoined from enforcing the Form 6 requirement for mayors and elected members of municipal governing bodies, and they will have to file a CE Form 1 ("Statement of Financial Interest").

V. PENALTIES

A. Non-criminal Penalties for Violation of the Sunshine Amendment and the Code of Ethics

There are no criminal penalties for violation of the Sunshine Amendment and the Code of Ethics. Penalties for violation of these laws may include: impeachment, removal from office or employment, suspension, public censure, reprimand, demotion, reduction in salary level, forfeiture of no more than one-third salary per month for no more than twelve months, a civil penalty not to exceed $20,000[4], and restitution of any pecuniary benefits received, and triple the value of a gift from a political committee.

B. Penalties for Candidates

CANDIDATES for public office who are found in violation of the Sunshine Amendment or the Code of Ethics may be subject to one or more of the following penalties: disqualification from being on the ballot, public censure, reprimand, or a civil penalty not to exceed $20,000*, and triple the value of a gift received from a political committee.

C. Penalties for Former Officers and Employees

FORMER PUBLIC OFFICERS or EMPLOYEES who are found in violation of a provision applicable to former officers or employees or whose violation occurred prior to such officer's or employee's leaving public office or employment may be subject to one or more of the following penalties: public censure and reprimand, a civil penalty not to exceed $20,000*, and restitution of any pecuniary benefits received, and triple the value of a gift received from a political committee.

[4] Conduct occurring prior to May 11, 2023, is subject to a recommended civil penalty of up to $10,000. [Ch. 2023-49, Laws of Florida]

D. Penalties for Lobbyists and Others

An executive branch lobbyist who has failed to comply with the Executive Branch Lobbying Registration law (see Part VIII) may be fined up to $5,000, reprimanded, censured, or prohibited from lobbying executive branch agencies for up to two years. Lobbyists, their employers, principals, partners, and firms, and political committees and committees of continuous existence who give a prohibited gift or honorarium or fail to comply with the gift reporting requirements for gifts worth between $25 and $100, may be penalized by a fine of not more than $5,000 and a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the public officer or employee to whom the gift was given for up to two years. Any agent or person acting on behalf of a political committee giving a prohibited gift is personally liable for a civil penalty of up to triple the value of the gift.

Executive Branch lobbying firms that fail to timely file their quarterly compensation reports may be fined $50 per day per report for each day the report is late, up to a maximum fine of $5,000 per report.

E. Felony Convictions: Forfeiture of Retirement Benefits

Public officers and employees are subject to forfeiture of all rights and benefits under the retirement system to which they belong if convicted of certain offenses. The offenses include embezzlement or theft of public funds; bribery; felonies specified in Chapter 838, Florida Statutes; impeachable offenses; and felonies committed with intent to defraud the public or their public agency. [Sec. 112.3173, Fla. Stat.]

F. Automatic Penalties for Failure to File Annual Disclosure

Public officers and employees required to file either Form 1 or Form 6 annual financial disclosure are subject to automatic fines of $25 for each day late the form is filed after September 1, up to a maximum penalty of $1,500. [Sec. 112.3144 and 112.3145, Fla. Stat.]

The Commission must undertake an investigation of a public officer or employee who accrues the $1,500 maximum fine and currently holds their filing position to determine if the failure to file was willful. If the Commission finds a willful failure to file, the only penalty that can be recommended, by law, is removal from office.

VI. ADVISORY OPINIONS

Conflicts of interest may be avoided by greater awareness of the ethics laws on the part of public officials and employees through advisory assistance from the Commission on Ethics.

A. Who Can Request an Opinion

Any public officer, candidate for public office, or public employee in Florida who is in doubt about the applicability of the standards of conduct or disclosure laws to himself or herself, or anyone who has the power to hire or terminate another public employee, may seek an advisory opinion from the Commission about himself or herself or that employee.

B. How to Request an Opinion

Opinions may be requested by letter presenting a question based on a real situation and including a detailed description of the situation. Opinions are issued by the Commission and are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request for the opinion. Published opinions will not bear the name of the persons involved unless they consent to the use of their names; however, the request and all information pertaining to it is a public record, made available to the Commission and to members of the public in advance of the Commission's consideration of the question.

C. How to Obtain Published Opinions

All of the Commission's opinions are available for viewing or download at its website: www.ethics.state.fl.us.

VII. COMPLAINTS

A. Citizen Involvement

The Commission on Ethics cannot conduct investigations of alleged violations of the Sunshine Amendment or the Code of Ethics unless a person files a sworn complaint with the Commission alleging such violation has occurred, or a referral is received, as discussed below.

As of June 21, 2024, the Commission on Ethics may only investigate complaints that are "based upon personal knowledge or information other than hearsay."[5] In compliance with the new law, ethics complaints that are not "based upon personal knowledge or information other than hearsay" cannot be investigated and will be dismissed.

If you have knowledge that a person in government has violated the standards of conduct or disclosure laws described above, you may report these violations to the Commission by filing a sworn complaint on the form prescribed by the Commission and available for download at www.ethics.state.fl.us. The Commission is unable to take action based on learning of such misdeeds through newspaper reports, telephone calls, or letters.

You can download a complaint form (FORM 50) from the Commission's website: www.ethics.state.fl.us, or contact the Commission office at the address or phone number shown on the inside front cover of this booklet.

B. Referrals

The Commission may accept referrals from: the Governor, the Florida Department of Law Enforcement, a State Attorney, or a U.S. Attorney. A vote of six of the Commission's nine members is required to proceed on such a referral.

[5] Ch. 24-253, § 6, Laws of Fla. (codified at § 112.324(1)(a), Fla. Stat. (2024)).

C. Confidentiality

The complaint or referral, as well as all proceedings and records relating thereto, is confidential until the accused requests that such records be made public or until the matter reaches a stage in the Commission's proceedings where it becomes public. This means that unless the Commission receives a written waiver of confidentiality from the accused, the Commission is not free to release any documents or to comment on a complaint or referral to members of the public or press, so long as the complaint or referral remains in a confidential stage.

A COMPLAINT OR REFERRAL MAY NOT BE FILED WITH RESPECT TO A CANDIDATE ON THE DAY OF THE ELECTION, OR WITHIN THE 30 CALENDAR DAYS PRECEDING THE ELECTION DATE, UNLESS IT IS BASED ON PERSONAL INFORMATION OR INFORMATION OTHER THAN HEARSAY.

D. How the Complaint Process Works

Complaints which allege a matter within the Commission's jurisdiction are assigned a tracking number and Commission staff forwards a copy of the original sworn complaint to the accused within five working days of its receipt. Any subsequent sworn amendments to the complaint also are transmitted within five working days of their receipt.

Once a complaint is filed, it goes through three procedural stages under the Commission's rules. The first stage is a determination of whether the allegations of the complaint are legally sufficient: that is, whether they indicate a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation, and all records relating to the complaint will become public at that time.

In cases of very minor financial disclosure violations, the official will be allowed an opportunity to correct or amend his or her disclosure form. Otherwise, if the complaint is found to be legally sufficient, a preliminary investigation will be undertaken by the investigative staff of the Commission. The second stage of the Commission's proceedings involves this preliminary investigation and a decision by the Commission as to whether there is probable cause to believe that

there has been a violation of any of the ethics laws. If the Commission finds no probable cause to believe there has been a violation of the ethics laws, the complaint will be dismissed and will become a matter of public record. If the Commission finds probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and usually enters the third stage of proceedings. This stage requires the Commission to decide whether the law was actually violated and, if so, whether a penalty should be recommended. At this stage, the accused has the right to request a public hearing (trial) at which evidence is presented, or the Commission may order that such a hearing be held. Public hearings usually are held in or near the area where the alleged violation occurred.

When the Commission concludes that a violation has been committed, it issues a public report of its findings and may recommend one or more penalties to the appropriate disciplinary body or official.

When the Commission determines that a person has filed a complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations, the complainant will be liable for costs plus reasonable attorney's fees incurred by the person complained against. The Department of Legal Affairs may bring a civil action to recover such fees and costs, if they are not paid voluntarily within 30 days.

E. Dismissal of Complaints At Any Stage of Disposition

The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the Commission will issue a public report stating with particularity its reasons for the dismissal. [Sec. 112.324(12), Fla. Stat.]

F. Statute of Limitations

All sworn complaints alleging a violation of the Sunshine Amendment or the Code of Ethics must be filed with the Commission within five years of the alleged violation or other breach of the public trust. Time starts to run on the day AFTER the violation or breach of public trust is committed. The statute of limitations is tolled on the day a sworn complaint is filed with the Commission. If a

complaint is filed and the statute of limitations has run, the complaint will be dismissed. [Sec. 112.3231, Fla. Stat.]

VIII. EXECUTIVE BRANCH LOBBYING

Any person who, for compensation and on behalf of another, lobbies an agency of the executive branch of state government with respect to a decision in the area of policy or procurement may be required to register as an executive branch lobbyist. Registration is required before lobbying an agency and is renewable annually. In addition, each lobbying firm must file a compensation report with the Commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. As noted above, no executive branch lobbyist or principal can make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 can knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.]

Paying an executive branch lobbyist a contingency fee based upon the outcome of any specific executive branch action, and receiving such a fee, is prohibited. A violation of this prohibition is a first degree misdemeanor, and the amount received is subject to forfeiture. This does not prohibit sales people from receiving a commission. [Sec. 112.3217, Fla. Stat.]

Executive branch departments, state universities, community colleges, and water management districts are prohibited from using public funds to retain an executive branch (or legislative branch) lobbyist, although these agencies may use full-time employees as lobbyists. [Sec. 11.062, Fla. Stat.]

Online registration and filing is available at www.floridalobbyist.gov. Additional information about the executive branch lobbyist registration system may be obtained by contacting the Lobbyist Registrar at the following address:

Executive Branch Lobbyist Registration
Room G-68, Claude Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1425
Phone: 850/922-4990

IX. WHISTLE-BLOWER'S ACT

In 1986, the Legislature enacted a "Whistle-blower's Act" to protect employees of agencies and government contractors from adverse personnel actions in retaliation for disclosing information in a sworn complaint alleging certain types of improper activities. Since then, the Legislature has revised this law to afford greater protection to these employees.

While this language is contained within the Code of Ethics, the Commission has no jurisdiction or authority to proceed against persons who violate this Act. Therefore, a person who has disclosed information alleging improper conduct governed by this law and who may suffer adverse consequences as a result should contact one or more of the following: the Office of the Chief Inspector General in the Executive Office of the Governor; the Department of Legal Affairs; the Florida Commission on Human Relations; or a private attorney. [Sec. 112.3187 - 112.31895, Fla. Stat.]

X. ADDITIONAL INFORMATION

As mentioned above, we suggest that you review the language used in each law for a more detailed understanding of Florida's ethics laws. The "Sunshine Amendment" is Article II, Section 8, of the Florida Constitution. The Code of Ethics for Public Officers and Employees is contained in Part III of Chapter 112, Florida Statutes.

Additional information about the Commission's functions and interpretations of these laws may be found in Chapter 34 of the Florida Administrative Code, where the Commission's rules are published, and in The Florida Administrative Law Reports, which until 2005 published many of the Commission's final orders. The Commission's rules, orders, and opinions also are available at www.ethics.state.fl.us.

If you are a public officer or employee concerned about your obligations under these laws, the staff of the Commission will be happy to respond to oral and written inquiries by providing information about the law, the Commission's interpretations of the law, and the Commission's procedures.

XI. TRAINING

Constitutional officers, elected municipal officers, commissioners of community redevelopment agencies (CRAs), commissioners of community development districts, and elected local officers of independent special districts are required to receive a total of four hours training, per calendar year, in the areas of ethics, public records, and open meetings. The Commission on Ethics does not track compliance or certify providers. Officials indicate their compliance with the training requirement when they file their annual Form 1 or Form 6.

Visit the training page on the Commission's website for up-to-date rules, opinions, audio/video training, and opportunities for live training conducted by Commission staff.

File Number: 2026-124

Agenda Date: February 18, 2026

Department: Gainesville Regional Utilities

Title: 2026-124 Fuel Levelization and Purchased Gas Adjustment Regulatory Items

Department: Gainesville Regional Utilities/Budget, Finance, and Accounting

Description: This item addresses changes to GRU's Electric System fuel levelization balance and the Gas System purchased gas adjustment balance resulting from GRU's transition from a member to a partner with The Energy Authority (TEA). Proceeds from this transition were used to reduce a significant portion of the Electric fuel levelization regulatory asset and to increase the Gas purchased gas adjustment regulatory liability.

Fiscal Note: Reduction of the Electric System regulatory asset by $10.7 million and increase of the Gas System regulatory liability by $1.1 million.

Explanation: The fuel levelization and purchased gas adjustment balances are classified as regulatory items for accounting and rate recovery purposes allowed under Generally Accepted Accounting Principles (GAAP) GASB 62, paragraphs 476-500. GRU routinely holds and applies regulatory accounting to certain assets/liabilities and deferred inflows/outflows in cases where those assets/liabilities and deferred inflows/outflows would be collected from or returned in rates in future periods.
The function of regulatory accounting removes certain revenues and expenses from the income statement and profit/loss and holds them for recovery in rates/revenues or release to expense in future reporting periods.
Prior to this action, the Electric System's fuel levelization balance was expected to be recovered from customers in future periods. GRU's receipt of cash from the TEA partnership transition allowed GRU to reduce this regulatory asset by $10.7 million, eliminating the need for future recovery and thereby directly benefitting customers.
Also impacted by the TEA cash receipt and GRU's action, the purchased gas levelization balance, a regulatory liability, was increased by $1.1 million.
Recovery of these portions of the regulatory items are no longer required from or to GRU's customers in current nor future reporting periods. As these are regulatory items, the rate setting body of the Authority is required to approve this action.

Recommendation: The GRU Authority approve the removal of the portion of the regulatory asset in the Electric System and increase the portion of the regulatory liability in the Gas System.

File Number: 2026-125

Agenda Date: February 18, 2026

Department: Gainesville Regional Utilities

Title: 2026-125 Regulatory Items

Department: Gainesville Regional Utilities/Budget, Finance, and Accounting

Description: This item addresses requirements related to GRU's accounting for regulatory items.

Fiscal Note: None, as these are already recorded.

Explanation: A key objective of accounting matching principles following Generally Accepted Accounting Principles (GAAP) is to match revenues and expenses. This matching must occur each period.

In rate-regulated industries such as utilities, certain allowable revenues and expenses may be deferred from earnings or expenses, excluded from profit and loss, and recognized in future periods to align with rate recovery.

This regulatory accounting allows for the smoothing of rate impacts on a regulated entity's customer base by deferring certain allowable revenues and expenses to be recognized in future periods.

Accordingly, enterprise funds that are used to account for rate-regulated activities are permitted to employ the following specialized accounting:

- The recognition of certain charges of the current period may be deferred and amortized over future periods if they are sure to be recovered through future rates
- The recognition of revenues associated with rates levied in anticipation of future charges may be deferred until the anticipated charge is incurred; and
- If a gain reduces allowable costs and this reduction will be reflected in lower future rates for customers, then the gain itself may be deferred and amortized over this same period.

GRU is required to receive governing body approval for these items that are considered regulatory items for accounting and rate recovery purposes under GAAP.

To qualify for this specialized accounting, a rate-regulated activity must meet *all* of the following criteria:

- Rates for regulated services or products are established by or subject to approval by either an independent, third-party regulator or the governing board itself, if it is empowered by statute or contract to establish rates that bind customers;
- The regulated rates are designed to recover the specific enterprise's costs of providing regulated services or products; and
- It is reasonable to assume that the regulated activity can set and collect charges sufficient to recover its costs.

GRU's governing body, GRUA, is requested to reaffirm GRU's regulatory items that are currently recorded as follows:

	FYE 2025
Rate stabilization (deferred inflow)	86,709,000
Fuel adjustment	4,509,000
Purchased gas adjustment (deferred inflow)	4,387,000
Electric service expansion	331,000
Cost recoverable in future years	20,318,000
Unamortized debt issuance costs	8,765,000
Swap termination fees	22,960,000
Ineffective portion of swap hedges	30,000
Pollution remediation	4,138,000
Other post-employment benefits (deferred inflow)	498,000
Pension	112,834,000

Recommendation: The GRU Authority affirm GRU's regulatory items.

File Number: 2026-127

Agenda Date: February 18, 2026

Department: Gainesville Regional Utilities

Title: 2026-127 SRF Grant Resolution – Supplemental Appropriation for Hurricanes Helene and Milton and Hawai'i Wildfires (B)

Department: Gainesville Regional Utilities/Water Wastewater

Description: The Supplemental Appropriation for Hurricanes Helene and Milton and Hawai'i Wildfires (SAHM) was established by Congress in 2024 through the American Relief Act. SAHM will provide $3 billion in funding to assist water and wastewater facilities impacted by Hurricanes Helene and/or Milton or the Hawaii wildfires in designated regions of the country. The funding can be used for capital improvements to increase resiliency from future disasters and is being administered by individual states through the State Revolving Fund (SRF) Program.

GRU submitted a Request for Inclusion and has been listed to receive up to $19,166,503 – the maximum allowable for any one entity – for improvements to GRU's wastewater collection and treatment systems. Gainesville meets the program criteria as a financially disadvantaged community; therefore, the award will be provided as 100 percent principal forgiveness. The proposed projects will include improvements to wastewater lift stations and force mains and may also include gravity sewer improvements, redundant electric feeds, and backup generation for wastewater treatment facilities. The next steps require GRU to submit a loan application to Florida Department of Environmental Protection (FDEP) and to develop a workplan describing the proposed improvements. Both the loan application and workplan are subject to approval by FDEP.

The loan application package, which must be submitted by March 12,2026, must include a GRUA resolution authorizing the CEO to execute an SRF loan agreement to receive the funding. The attached resolution is similar to the resolution approved by GRUA at its December 10, 2025 meeting for the PFAS Treatment Evaluation. As with that project, there is no requirement for pledged revenues for repayment, as no repayment is required.

Fiscal Note: Through the SRF program, SAHM will provide up to $19,166,503 in funding for wastewater system improvements to increase resiliency to future storms. The funding will be provided as 100 percent principal forgiveness and does not require local matching funds. The proposed workplan will include projects already identified in

the wastewater 10-year capital improvement plan, therefore this funding will offset future capital spending.

Recommendation: The GRU Authority (i) approve the resolution and authorize the Chair to execute the same, (ii) authorize the CEO to enter into the SRF loan agreement with the FDEP for the SAHM funding; (iii) authorize staff to take all necessary administrative actions to implement each of the foregoing.

RESOLUTION NO. 2026-127

A RESOLUTION OF THE GAINESVILLE REGIONAL UTILITIES AUTHORITY, A UNIT OF CITY GOVERNMENT OF THE CITY OF GAINESVILLE, FLORIDA, RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM; MAKING FINDINGS; AUTHORIZING THE LOAN APPLICATION; AUTHORIZING THE LOAN AGREEMENT; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCES; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, Florida law provides for loans to local government agencies to finance the planning, design, and construction of wastewater treatment facilities; and

WHEREAS, Florida Administrative Code rules require authorization to apply for loans, to establish pledged revenues, to designate an authorized representative; to provide assurances of compliance with loan program requirements; and to enter into a loan agreement; and

WHEREAS, the State Revolving Fund loan priority list designates Project No. WW01020 as eligible for available funding; and

WHEREAS, the Gainesville Regional Utilities Authority ("Authority"), a Unit of City Government of the City of Gainesville, Florida, intends to enter into a loan agreement (the "Loan Agreement") with the Department of Environmental Protection under the State Revolving Fund for project financing; and

WHEREAS, pursuant to section 2, article 7.01, Ch. 2023-348, Laws of Florida ("Special Act"), the Authority shall operate as a Unit of City Government and, except as otherwise provided in the Special Act, shall be free from direction and control of the Gainesville City Commission. The Authority is created for the express purpose of managing, operating, controlling, and otherwise having broad authority with respect to the utilities owned by the City of Gainesville; and

WHEREAS, the City Commission of the City of Gainesville, Florida, (the "Commission") adopted Resolution No. 2023-1186 on December 22, 2023 (the "Transition Resolution") to effectuate the orderly transition of the governance, operation, management, and control of all utility systems, properties and assets related to the System to the Authority; and

WHEREAS, the Authority adopted Resolution No. 2026-___ on February 18, 2026 and the Commission adopted Resolution No. 2026-_____ on February 19, 2026 (the "2026 Resolution") to expressly approve and authorize this grant; and

WHEREAS, pursuant to section 2, article 7.03(e) of the Special Act, the Authority is authorized to issue evidences of indebtedness of the City of Gainesville secured by the revenues and pledged funds and accounts of the utility system, pursuant to Florida Law.

NOW, THEREFORE, BE IT RESOLVED BY THE GAINESVILLE REGIONAL UTILITIES AUTHORITY, A UNIT OF CITY GOVERNMENT OF THE CITY OF GAINESVILLE, FLORIDA, AS FOLLOWS:

SECTION I. The foregoing findings are incorporated herein by reference and made a part hereof.

SECTION II. The Authority, a Unit of City Government of the City of Gainesville, Florida, is authorized to apply for a loan to finance the Project.

SECTION III. No revenues will be pledged for the repayment of the loan because the loan will be 100 percent forgiven and no repayment is required and shall be treated as a grant for all purposes by the Authority.

SECTION IV. The Authority's Chief Executive Officer/General Manager is hereby designated as the authorized representative and agent of the City of Gainesville to provide the assurances and commitments required by the loan application.

SECTION V. The Authority's Chief Executive Officer/General Manager is hereby designated as the authorized representative and agent of the City of Gainesville to execute the Loan Agreement which will become a binding obligation in accordance with its terms when signed by both parties. If the Authority's Chief Executive Officer/General Manager is unavailable the Chief Financial Officer of the Authority is delegated authority to take all actions hereunder that have been delegated to the Authority's Chief Executive Officer/General Manager.

SECTION VI. The Authority's Chief Executive Officer/General Manager is authorized to represent and act as an agent of the City of Gainesville in carrying out the City of Gainesville and its Authority's responsibilities under the Loan Agreement. The Chief Executive Officer/General Manager is authorized to delegate responsibility to appropriate Authority staff to carry out technical, financial, and administrative activities associated with the Loan Agreement.

SECTION VII. Although governing bodies of municipalities are generally authorized to borrow pursuant to section 166.111, *Florida Statutes,* the specific legal authority for the Authority's borrowing moneys to construct this Project is section 2, article 7.03(e), Ch. 2023-348, Laws of Florida, and Article VII, section 7.03(e) of Gainesville's City Charter (despite no revenues being pledged).

SECTION VIII. All Resolutions or part of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION IX. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION X. This Resolution shall become effective immediately upon its passage and adoption.

PASSED and ADOPTED this 18th day of February 2026.

GAINESVILLE REGIONAL UTILITIES AUTHORITY

By: _____
Eric Lawson, Chair

Approved as to Form and Legality:

_____
Derek D. Perry
Utilities Attorney

File Number: 2026-128

Agenda Date: February 18, 2026

Department: Gainesville Regional Utilities

Title: 2026-128 Resolution Authorizing Gainesville Regional Utilities Financial Transactions (B)

Department: Gainesville Regional Utilities/Budget, Finance, and Accounting

Description: This is a resolution requesting that the Gainesville Regional Utilities Authority (GRUA) authorize the CEO and/or Chief Financial Officer to negotiate and execute financial transactions, within prescribed execution parameters, and that GRUA request the City Commission of the City of Gainesville to take certain actions in connection therewith necessary and proper to effectuate the orderly transition of governance.

Fiscal Note: As noted above, these transactions are designed to

- Efficiently and effectively access capital markets to acquire new money for system infrastructure construction, acquisition, and upgrade
- Reduce debt portfolio risk (limiting unhedged variable rate debt, locking favorable rates, etc.)
- Add savings certainty
- Generate savings through reducing projected debt service costs
- Continue effective administration of GRU's variable rate and direct placement debt programs
- Generate fuel acquisition cost savings

Explanation: GRU and PFM Financial Advisors, LLC, have identified a range of financial transactions. These transactions are designed to allow the utility to:

- Efficiently and effectively access capital markets to acquire new money for system infrastructure construction, acquisition, and upgrade

- Reduce debt portfolio risk (limiting unhedged variable rate debt, locking in favorable rates, etc.)

- Add savings certainty

- Generate savings through reducing projected debt service costs

- Continue effective administration of GRU's variable rate and direct placement debt programs

- Generate fuel acquisition cost savings

GRUA authorization of this resolution will provide staff the flexibility to execute transactions in a timely fashion.

Following are the transactions, and where appropriate, associated execution parameters.

1) The issuance of up to $150,000,000 of utilities system revenue bonds to finance the cost of acquisition and construction of system infrastructure. These bonds shall mature not more than 31 years from the date of issuance and shall have a true interest cost not to exceed 6%.

2) Participation in certain State Revolving Fund loans with the Florida Department of Environmental Protection to finance the cost of acquisition and construction of system infrastructure.

3) The issuance of refunding bonds to refinance outstanding fixed rate bonds, subject to the following execution parameters: the interest rate on the refunding bonds shall result in a net present value savings of at least 3.00% and the final maturity date of any such refunding bonds shall not exceed the maturity date of the bonds being refunded.

4) Redemption of federally taxable Build America Bonds, Utilities System Revenue Bonds 2009 Series B and 2010 Series B, subject to the following execution parameters: the interest rate on the refunding bonds shall result in at least neutral net present value savings and the final maturity date of such refunding bonds shall not exceed the maturity date of the bonds being refunded. This potential transaction is designed to reduce risk to the portfolio by reducing sequestration risk – the risk that Congressional legislation might significantly reduce or eliminate the interest rate subsidies currently associated with these bonds.

5) Extension or solicitation of proposals for new revolving line of credit agreements for 2023 Series A, B, and C Bonds.

6) Refunding the 2014 Series A Bonds. If refunded through the issuance of fixed rate bonds, GRU will concurrent with the issuance of the refunding bonds terminate the 2014 Series A Forward Starting Swap entered into on October April

8, 2020. If refunded through variable rate debt the 2014 Series A Forward Starting Swap shall be used to hedge the variable interest rate risk on the refunding bonds and add refunding savings certainty to the transaction.

7) Amendment, renewal or termination of existing floating to fixed interest rate swaps and execution of new swaps to include commodity hedges.

8) Extension of liquidity facilities supporting GRU's 2012 Series B and 2019 Series C variable rate bonds, as well the 2018 Series A, 2020 Series A, and 2022 Series A/B lines of credit.

9) Execution of agreements for the future delivery of fuel or other commodities (gas or energy prepay agreements).

Recommendation: The GRUA (1) adopt the resolution authorizing the CEO and/or the Chief Financial Officer to negotiate and execute the financial transactions, within prescribed execution parameters and select an underwriter pool to facilitate potential public market debt transactions, and (2) request the City Commission of the City of Gainesville to take certain actions in connection therewith necessary and proper to effectuate the orderly transition of governance.

RESOLUTION NO. 2026-128

RESOLUTION OF THE GAINESVILLE REGIONAL UTILITIES AUTHORITY AUTHORIZING LOANS WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S STATE REVOLVING FUND PROGRAM, AUTHORIZING THE EXTENSION, AMENDMENTS AND/OR REFINANCING OF THE VARIABLE RATE UTILITIES SYSTEM REVENUE BONDS, 2023 SERIES A, 2023 SERIES B AND 2023 SERIES C, AUTHORIZING THE ISSUANCE OF REFUNDING UTILITY SYSTEM REVENUE BONDS UPON MEETING THE PARAMETERS SET FORTH HEREIN, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED THE PRINCIPAL AMOUNT OF $150,000,000 UTILITIES SYSTEM REVENUE BONDS TO FINANCE THE COSTS OF ACQUISITION AND CONSTRUCTION COSTS OF IMPROVEMENTS TO THE UTILITY SYSTEM, AUTHORIZING THE ISSUANCE OF UTILITIES SYSTEM REVENUE BONDS TO REFINANCE THE CITY OF GAINESVILLE UTILITIES SYSTEM REVENUE BONDS, 2014 SERIES A, AUTHORIZING THE ENTERING INTO, AMENDMENT, RENEWAL, REPLACEMENT OR TERMINATION OF QUALIFIED HEDGING CONTRACTS, COMMODITY HEDGES AND FOREIGN CURRENCY EXCHANGE AGREEMENTS, AUTHORIZING THE PAYMENT OF COSTS OF ISSUANCE RELATED TO THE TRANSACTIONS DESCRIBED HEREIN; AUTHORIZING THE ESTABLISHMENT OF A POOL OF UNDERWRITERS FOR UNDERWRITING SERVICES FOR PUBLICLY OFFERED UTILITY SYSTEM REVENUE BONDS, APPROVAL OF EXTENSION AND REPLACEMENT OF CERTAIN CREDIT ENHANCEMENT AND LINES OF CREDIT AND ADVANCES THEREUNDER; APPROVAL OF ESCROW AGREEMENT AND INVESTMENTS THEREIN; DELEGATING THE AUTHORITY TO DETERMINE CERTAIN MATTERS AND AUTHORIZING PROPER OFFICIALS TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE TRANSACTIONS DESCRIBED HEREIN; REQUESTING THE CITY COMMISSION OF THE CITY OF GAINESVILLE TO TAKE CERTAIN ACTIONS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission (the "City Commission") of the City of Gainesville, Florida ("City") adopted on September 21, 2017 its Resolution No. 170395 incorporating by reference the Second Amended and Restated Utilities System Revenue Bond Resolution adopted by the City on September 21, 2017, as amended (the "Master Bond Resolution"), and authorized the issuance of Bonds; and

WHEREAS, the Charter of the City being Chapter 12760, Laws of Florida, as amended by Chapter 90-394, Laws of Florida was amended pursuant to Chapter No. 2023-348, Laws of Florida (the "Amendment"), which such Amendment added Article VII to the Charter and thereby created the Gainesville Regional Utilities Authority (the "Authority") and the position of

chief executive officer/general manager ("CEO/GM") and repealed Section 3.06 of Article III of section 1 of Chapter 90-394, Laws of Florida relating to the position of the General Manager for Utilities; and

WHEREAS, Section 716 of the Master Bond Resolution allows for the lawful reorganization of the governmental structure of the City and the transfer of a public function of the City to another public body, so long as the reorganization provides that the System shall be continued as a single enterprise; and

WHEREAS, the Charter provides that the System shall continue to be operated as a single enterprise and there shall be no change to the ownership of the System; and

WHEREAS, the Charter grants the Authority the power to do all things necessary to effectuate an orderly transition of the management, operation, and control of the Utilities from the Commission to the Authority, consistent with the Charter, including the power to authorize the issuance of revenue bonds, the execution and attestations of bonds by officers, employees and agents of the City, by individuals designated by the Authority as agents of the City for such purposes, and authorized the Authority to enter in hedging agreements for interest rate and commodity price fluctuations; and

WHEREAS, the Charter provides that the City and the Authority shall perform all acts necessary and proper to effectuate an orderly transition of the governance, operation, management, and control of all utility systems, properties and assets related to the System, including, but not limited to, the creation of such instruments as are necessary for the Authority to function in accordance with the Charter; and

WHEREAS, the Authority adopted Resolution No. 2023-1148 on December 6, 2023 and thereafter ratified by the Authority pursuant to Resolution No. 2024-557 on August 7, 2024 (collectively, "Resolution Nos. 1148/557") to effectuate the orderly transition of the governance, operation, management, and control of all utility systems, properties and assets related to the System, doing business as the Gainesville Regional Utilities, to the Authority; and

WHEREAS, the City Commission adopted Resolution No. 2023-1186 on December 22, 2023 ("Resolution No. 2023-1186") to effectuate the orderly transition of the governance, operation, management, and control of all utility systems, properties and assets related to the System, doing business as the Gainesville Regional Utilities, to the Authority; and

WHEREAS, since the Authority adopted Resolution Nos. 1148/557 and the City Commission adopted Resolution No. 2023-1186 there have been two Charter Amendment referenda presented to and approved by the electorate of the City of Gainesville in 2024 and 2025, that would delete Article VII of the Charter in its entirety, which, if given effect, would eliminate the existence of the Authority; and

WHEREAS, the Authority initiated litigation challenging the legality of the 2024 and 2025 Charter Amendment referenda, and the effect of the referenda is stayed by judicial order during the pendency of the ongoing litigation; and

WHEREAS, the Authority in order to provide assurances to the System's creditors desires to request the City Commission to provide confirmation of the Authority's financial operations of the System and the various transactions outlined herein; and

WHEREAS, the City has previously issued its Variable Rate Utilities System Revenue Bonds, 2023 Series A (the "2023A Bond") authorized pursuant to Resolution No. 2023-305 adopted by the City Commission on April 6, 2023 (the "2023A Resolution"), Variable Rate Utilities System Revenue Bonds, 2023 Series B (the "2023B Bond") authorized pursuant to Resolution No. 2023-304 adopted by the City Commission on April 6, 2023 (the "2023B Resolution"), and Variable Rate Utilities System Revenue Bonds, 2023 Series C (the "2023C Bond" and together with the 2023A Bond and the 2023B Bond, the "2023ABC Bonds") authorized pursuant to Resolution No. 2023-574 adopted by the City Commission on June 15, 2023 (the "2023C Resolution" and together with the 2023A Resolution and the 2023B Resolution the "2023ABC Resolutions") which such 2023ABC Bonds are subject to tender at the option of the holders thereof in fiscal year 2026; and

WHEREAS, the Authority desires to enter into certain State Revolving Fund ("SRF") loans with the Florida Department of Environmental Protection ("DEP") to finance the Cost of Acquisition and Construction to the System; and

WHEREAS, the Authority has entered into negotiations with DEP to enter into (i) a Drinking Water State Revolving Fund Planning and Design Loan Agreement (LS010210) for a loan in the principal amount of approximately $547,405, (ii) a Drinking Water State Revolving Fund Planning and Design Loan Agreement (WW011810) for a loan in the principal amount of approximately $1,100,000 (collectively, the "2025 SRF Loans") and (iii) other SRF loans to finance the Cost of Acquisition and Construction to the System; and

WHEREAS, the City has previously issued certain Bonds bearing interest at fixed rates and it is necessary and desirable to authorize the refinancing of such bonds on terms set forth herein; and

WHEREAS, it is necessary and desirable to provide for the refinancing of the City's Variable Rate Utilities System Revenue Bonds, 2014 Series A (the "2014 Bonds"), and if variable rate Bonds are issued, to hedge the variable interest rate on such 2014 Bonds with a Qualified Hedging Contract previously entered by the Authority; and

WHEREAS, it is necessary and desirable to provide for the issuance of up to $150,000,000 in principal amount of Utilities System Revenue Bonds to finance the Cost of Acquisition and Construction to the System; and

WHEREAS, certain Qualified Hedging Contracts related to the Bonds have been entered into and it is necessary and desirable to provide for the renewal, replacement, amendment or termination of one or more of the Qualified Hedging Contracts that are outstanding and have been issued to moderate the interest rate fluctuations on certain Outstanding Bonds or to enter into Qualified Hedging Contracts in connection with Bonds outstanding or to be issued; and

WHEREAS, the Authority anticipates the acquisition of equipment for use in the System priced in foreign currency, which exposes the Authority to foreign exchange currency fluctuations; and

WHEREAS, the Authority believes it is in its best interest to mitigate such currency risk by entering into foreign currency exchange agreements to ensure cost predictability and to manage exposure to foreign exchange volatility; and

WHEREAS, the System was formed, among other reasons, to acquire secure, reliable and adequate long-term supplies of natural gas for ultimate delivery to the residential, commercial, institutional, and industrial consumers in their areas of service and to achieve cost savings, economies of scale and reliability of supply and periodically enters into agreements to ensure the long term delivery and stable price of natural gas and it is necessary and desirable to authorize entering into such agreements; and

WHEREAS, it is necessary and desirable to authorize the General Manager or Chief Financial Officer, or other Authorized Officers, to establish a pool of underwriters to provide underwriting services for publicly offered Utilities System Revenue Bonds; and

WHEREAS, pursuant to Resolution No. 191142 adopted by the City on April 16, 2020, as amended by Resolution No. 191095 adopted on April 16, 2020 (collectively, the "Truist LC Bond Resolution"), the City issued its Variable Rate Subordinated Utilities System Revenue Bond, 2020 Series A (Federally Taxable), as amended (the "Truist LC Bond") which Truist LC Bond was purchased by Truist Bank (the "Truist Line of Credit"); and

WHEREAS, pursuant to Resolution No. 171089 adopted by the City on May 17, 2018, as amended by Resolution No. 210533 adopted on October 1, 2021 (the "TRUCE LC Bond Resolution"), the City issued its Variable Rate Subordinated Utilities System Revenue Bond, 2018 Series A (the "TRUCE LC Bond") which TRUCE LC Bond was purchased by Truist Commercial Equity, Inc. as successor to STI Institutional & Government, Inc. (the "TRUCE Line of Credit"); and

WHEREAS, pursuant to Resolution No. 211098 adopted by the City on April 21, 2022 (together with the Truist LC Bond Resolution, the TRUCE LC Bond Resolution, the "Line of Credit Resolutions"), the City issued its Variable Rate Subordinated Utilities System Revenue Bond, 2022 Series A and Variable Rate Subordinated Utilities System Revenue Bond, 2022 Series B (Federally Taxable) (the "USB LC Bond" and collectively with the Truist LC Bond and TRUCE LC Bond, the "Line of Credit Bonds") which USB LC Bond was purchased by U.S. Bank National Association (the "USB Line of Credit" and together with the Truist Line of Credit and TRUCE Line of Credit, the "Lines of Credit"); and

WHEREAS, the Line of Credit Bonds were issued for the purpose of evidencing the obligations under the Lines of Credit, each as Subordinated Indebtedness pursuant to the Subordinated Bond Resolution, to finance from time to time the Cost of Acquisition and Construction of the System, including, without limitation, working capital; and

WHEREAS, the Authority, to provide further assurances to the creditors secured by Pledged Revenues, desires to request the City Commission to adopt a resolution to (a) ratify and confirm Resolution No. 2023-1186, and (b) confirm the transactions set forth herein; and

WHEREAS, the Authority determines and finds that any such actions taken by the City Commission as requested by this Resolution do not violate the provisions of the Charter which provides that the Authority shall be free from direction and control of the City Commission but that all such actions are necessary to facilitate the governance, operation, management, and control of the Authority;

NOW, THEREFORE, BE IT RESOLVED BY THE AUTHORITY THAT:

ARTICLE I
DEFINITIONS

Section 1.01 Authority; Definitions. All capitalized terms not otherwise defined herein shall have such meaning as given in the Master Bond Resolution, as supplemented. This Resolution is adopted pursuant to the provisions of Chapter 166, Florida Statutes, the City's Charter, the Master Bond Resolution and other applicable provisions of law (the "Act").

"Authorized Officer" for purposes of this Resolution shall mean the General Manager, the Chief Financial Officer or their respective designees or any other officer, employee or agent of the City or the Authority authorized to perform specific acts or duties by resolution duly adopted by the City or the Authority.

"Chief Financial Officer" shall mean the Chief Financial Officer of the System.

"City Attorney" shall mean the City Attorney and any assistant City Attorney.

"General Manager" shall mean the General Manager of the System, appointed as the chief executive officer/general manager pursuant to the Charter or any assistant General Manager in the General Manager's absence or unavailability or interim General Manager or such other person authorized to serve as the general manager of the System under the Act.

"Issuer Documents" as applicable, purchase agreement, continuing disclosure agreement, escrow agreement, continuing covenants agreement, agreements for credit enhancement, qualified hedging contracts, reimbursement agreement, and such other related agreements, certificates, notices and documents.

"System" shall have the meaning given in the Master Bond Resolution.

ARTICLE II
CERTAIN FINDINGS AND DETERMINATIONS

Section 2.01 Certain Findings and Determinations. The Authority hereby finds and determines that:

(a) The factual recitals set forth herein are incorporated in this section as findings as if expressly set forth herein.

(b) The Authority, pursuant to Resolution Nos. 1148/557, assumed all obligations and duties of the City under the Bond Resolution, as amended and supplemented.

(c) The Authority ratifies and confirms Resolution Nos. 1148/557.

(d) It is in the best interest of the System to delegate authorization for the transactions set forth herein.

ARTICLE III
ADDITIONAL AUTHORIZATIONS

Section 3.01 Request of City Commission for Joint Consent. The Authority approves the transactions set forth in this Article III and requests that the City Commission concurrently provide assurances of its concurrence, with the details and forms of agreements for such applicable transactions to be approved by the Authority in accordance with future resolutions to be adopted by the Authority.

Section 3.02 Authorization to Enter into SRF Loans. The General Manager or Chief Financial Officer, or any other Authorized Officer, is hereby authorized, from time to time to enter into one or more loan agreements with the DEP pursuant to the DEP's SRF loan program, secured by Bonds or Subordinated Indebtedness, to finance the Cost of Acquisition and Construction to the System and to enter into any related escrow agreements pertaining thereto on such terms and together with such other related agreements, certificates and documents all as shall be approved by or authorized pursuant to a Supplemental Resolution adopted by the Authority. The Authority ratifies and confirms the Authority's approval to execute and deliver the 2025 SRF Loans and the execution and delivery of all other applicable Issuer Documents, including without limitation, an escrow deposit agreement and certificates and opinions in connection therewith by the General Manager or Chief Financial Officer, or any other Authorized Officer.

Section 3.03 Authorization of Reissuance of 2023ABC Bonds. The General Manager or Chief Financial Officer, or any other Authorized Officer, is hereby authorized to extend the term of the 2023ABC Bonds and to waive the mandatory tender dates on the 2023ABC Bonds for a term not longer than five years from the effective date of the extension. The General Manager or Chief Financial Officer or any other Authorized Officer, upon the advice of the municipal advisor to the System, may enter into negotiations with the holders of the 2023A Bond, 2023B Bond and/or 2023C Bond to modify the interest rate and other provisions therein, with such final terms as shall be approved by or authorized pursuant to a Supplemental Resolution adopted by the Authority and as may be set forth in the Issuer Documents and such

other related agreements, certificates and opinions delivered in connection therewith. At the request of TD Bank, the sole holder of the 2023B Bond and 2023C Bond such Bonds may be assigned to TD Public Finance LLC or refunded and the issuance of Refunding Bonds to be held by TD Public Finance LLC or another holder with such terms as shall be set forth in the applicable Issuer Documents that shall have been approved by or authorized pursuant to a Supplemental Resolution adopted by the Authority. The General Manager, Chief Financial Officer or any other Authorized Officer, upon the advice of the municipal advisor to the System, may also seek proposals from other lenders, secured by Bonds or Subordinated Indebtedness, to replace the 2023A Bond, 2023B Bond and/or 2023C Bond, with such terms as shall be set forth in the applicable Issuer Documents that shall have been approved by or authorized pursuant to a Supplemental Resolution adopted by the Authority.

Section 3.04 Authorization of Issuance of Refunding Bonds for Refinancing of Outstanding Fixed Rate Bonds. The Authority approves the issuance from time to time of Refunding Bonds, either at a public sale or as a direct placement, to refinance Outstanding fixed rate Bonds, subject to the following parameters: the interest rate on the Refunding Bonds shall result in an aggregate net present value savings of at least 3.00% and the final maturity date of any such Refunding Bonds shall not exceed the maturity date of the Bonds being refunded thereby, with such final terms and disclosure to be contained in an offering statement and Issuer Documents all as shall be approved by or authorized pursuant to a Supplemental Resolution adopted by the Authority.

The Authority authorizes the redemption of the Utilities System Revenue Bonds, 2009 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds) (the "2009B Bonds") and Utilities System Revenue Bonds, 2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds) (the "2010B Bonds") subject to the following parameters: the interest rate on the Refunding Bonds, if issued as fixed rate Bonds, shall result in dissavings of not more than 1.0% (which savings calculations may take into account the effects of sequestration) and the final maturity date of any such Refunding Bonds shall not exceed the maturity date of the Bonds being refunded thereby, to be sold by a direct placement or negotiated public sale to such purchaser(s) as shall be selected by the Authority, with such final terms and disclosure to be contained in an offering statement and Issuer Documents, all as shall be approved by or authorized pursuant to a Supplemental Resolution adopted by the Authority. The Authority hereby finds and determines that an "Extraordinary Event" (as defined in the 2009B Bonds and the 2010B Bonds) has occurred and therefore the 2009B Bonds and 2010B Bonds shall be subject to extraordinary optional redemption in accordance with the terms of the 2009B Bonds and the 2010B Bonds.

Such Refunding Bonds may be issued as fixed rate Bonds or Variable Rate Bonds with or without Credit Enhancement, which may be hedged with a Qualified Hedging Contract in a notional amount that shall not exceed the principal amount of such Variable Rate Bonds and shall be approved by a Supplemental Resolution adopted by the Authority as further provided in Section 3.07 hereof with such terms as shall be set forth in the applicable Issuer Documents that shall have been approved by or authorized pursuant to the Supplemental Resolution adopted by the Authority. Such Variable Rate Bonds may provide for interest rate mode changes as shall be approved by a Supplemental Resolution adopted by the Authority.

Section 3.05 Authorization of Issuance of Bonds for Financing Improvements to the System. The Authority approves the issuance from time to time of Bonds in an aggregate principal amount of not to exceed $150,000,000 in principal amount (without regard to premium or discount) to finance the Cost of Acquisition and Construction to the System, subject to the following parameters: such bonds shall mature not more than 31 years from the date of issuance, and if issued as fixed rate Bonds, shall have a true interest cost not to exceed 6.00%, to be sold by a direct placement or negotiated public sale to such purchaser(s) as shall be selected by the Authority, with such redemption provisions, terms and conditions and description of the project to be financed thereby and with such final terms and disclosure to be contained in an offering statement and Issuer Documents, all as shall be approved by or authorized pursuant to a Supplemental Resolution adopted by the Authority.

Such Bonds may be issued as fixed rate Bonds or Variable Rate Bonds, with or without Credit Enhancement, which Bonds may be hedged with a Qualified Hedging Contract in a notional amount that shall not exceed the principal amount of such Variable Rate Bonds and shall be approved by a Supplemental Resolution adopted by the Authority as further provided in Section 3.07 hereof. Such Variable Rate Bonds may provide for interest rate mode changes as shall be approved by a Supplemental Resolution adopted by the Authority.

Section 3.06 Authorization of Refunding of 2014 Bonds. The Authority approves the refunding of the 2014 Bonds with either fixed rate Bonds or Variable Rate Bonds. If the Authority determines to issue (x) fixed rate Bonds to refund the 2014 Bonds, the Authority shall concurrently with the issuance terminate the Qualified Hedging Contract entered into pursuant to the trade confirmation dated April 8, 2020 in an original notional amount of $34,025,000 issued pursuant to a Master Agreement and other related documents with Bank of America, N.A. dated as of April 7, 2020, as amended and supplemented (the "2014 Hedge") and apply the cash settlement amount received from the Counterparty, if any, to refund a portion of the 2014 Bonds and thereby reduce the principal amount of the Refunding Bonds to be issued, including financing any termination payment or (y) Variable Rate Bonds to refund the 2014 Bonds, the 2014 Hedge shall be assigned to such Refunding Bonds and used to hedge the variable rate on such Refunding Bonds, with the determination of whether to issue as fixed rate Bonds or Variable Bonds as shall be determined by and subject to such parameters as shall be set forth in a Supplemental Resolution adopted by the Authority, to be sold by a direct placement or negotiated public sale to such purchaser(s) as shall be selected by the Authority, and with such terms and disclosure to be contained in an offering statement if sold as a public bond issue and Issuer Documents, all as shall be approved by or authorized pursuant to a Supplemental Resolution adopted by the Authority.

Section 3.07 Authorization to Enter Into, Amend, Renew or Terminate Qualified Hedging Contracts and Commodity Hedges. The General Manager, Chief Financial Officer or any other Authorized Officer, upon the advice of the municipal advisor to the System (or an affiliate company of the municipal advisor to the System), are each hereby authorized to enter into Qualified Hedging Contracts to hedge the interest rate on Bonds or Subordinated Indebtedness authorized herein and to amend outstanding Qualified Hedging Contracts entered into with the counterparty thereto (the "Counterparty") pursuant to which the Counterparty pays a variable rate of interest and the Counterparty receives from the City a fixed rate of interest (the "Swap") in order to enter into, replace, amend or terminate (which may be in part) any such

Qualified Hedging Contracts and to execute and deliver such agreements, documents and instruments on behalf of the City as may be necessary to evidence such amendments as are necessary to maintain the variable rates paid on the Swap to be substantially similar to the variable rate on the Bonds to which such Qualified Hedging Contract applies or to terminate such Qualified Hedging Contract in connection with the issuance of fixed rate Bonds or for such other financial reasons based on the advice of the municipal advisor to the System.

The execution of such agreements and/or confirmations by an Authorized Officer shall be conclusive evidence that such rates are substantially similar. Each Authorized Officer is hereby authorized to execute and deliver or cause to be executed and delivered such other documents and opinions and to do all such acts and things as may be necessary or desirable in connection with such Qualified Hedging Contract, for the full punctual and complete performance of all the terms, covenants and agreements contained herein and in the applicable swap documents, including, without limitation the applicable Master ISDA Agreement and Schedule, Credit Support Annex and trade confirmation. This section does not require that entering into such Qualified Hedging Contract happen concurrently with the issuance of the related Bonds but such Qualified Hedging Contract may be amended, if based on the advice of municipal advisor to the System it is beneficial to the City.

The General Manager, Chief Financial Officer or any other Authorized Officer, upon the advice of the municipal advisor to the System (or an affiliate company of the municipal advisor to the System), are authorized to enter into foreign currency exchange agreements with qualified financial institutions for the purpose of hedging U.S. currency against foreign currency related to the purchase of equipment. The notional amount of any foreign currency hedge shall not exceed the total purchase price of the equipment being acquired under the applicable procurement agreement on such terms as shall be set forth in or authorized by a resolution adopted by the Authority and may be secured under the Master Bond Resolution.

The General Manager, Chief Financial Officer or any other Authorized Officer, upon the advice of the municipal advisor to the System (or an affiliate company of the municipal advisor to the System), consistent with the Charter and based on the advice of the municipal advisor to the System, may enter into agreements for the future delivery of fuel or other commodities, for the operation of the System, on such terms and conditions as shall be approved by the Authority and each Authorized Officer is hereby authorized to execute and deliver or cause to be executed and delivered such other documents and opinions as shall be required by the counterparty thereto.

Section 3.08 Establishment of Underwriting Pool. The General Manager, Chief Financial Officer, or any other Authorized Officer, upon the advice of the municipal advisor to the System, are hereby authorized to establish a pool of underwriters to provide underwriting services for the public offering of Bonds or Subordinated Indebtedness and to negotiate a bond purchase agreement with one or more of the selected underwriters. Upon compliance with the provisions herein and by Supplemental Resolution or other resolutions adopted by the Authority and receipt of a disclosure statement and truth-in-bonding statement from the representative of the applicable purchaser(s) meeting the requirements of Section 218.385, Florida Statutes, and subject to the other provisions of this Resolution and resolutions of the City, the officers signing the same, with the advice of the municipal advisor to the System, is hereby authorized and

directed to accept the offer of the applicable purchaser to purchase such Bonds or Subordinated Indebtedness, upon the terms, conditions and redemption provisions set forth in the applicable purchase agreement. Subject to the provisions set forth herein, the General Manager, the Chief Financial Officer or such other Authorized Officer, is hereby authorized to execute the Issuer Documents for and on behalf of the City pursuant to the terms hereof and of the applicable purchase agreement.

Section 3.09 Credit Enhancement and Revolving Lines of Credit. The Authority ratifies and confirms Resolution Nos. 1148/557 which previously provided certain delegations in connection with Credit Enhancement issued in connection with certain Outstanding Bonds and lines of credit issued to provide liquidity for the System.

In furtherance thereof, the Authority authorizes the extension of the term of any Credit Enhancements for Outstanding Variable Rate Bonds and authorizes the procurement of substitute Credit Enhancement for any of the Credit Enhancements then in effect. In connection with any such extension of the term of a particular Credit Enhancement, the General Manager or Chief Financial Officer, or any other Authorized Officer, is hereby further authorized to execute and deliver, such documents and instruments (including, without limitation, an amendment to or amendment and restatement of any such Credit Enhancement agreements and the related fee letter) as shall be determined by the General Manager or Chief Financial Officer, or other Authorized Officer, to be (a) necessary or desirable and advantageous to the System and (b) in commercially reasonable form; provided, however, that if any such extension shall be on terms and conditions different from the terms and conditions of such Credit Enhancement as then in effect, then such determination of the General Manager or Chief Financial Officer, or such other Authorized Officer, shall be confirmed in writing by the firm serving at that time as the System's municipal advisor.

In connection with any such procurement of Credit Enhancement in substitution for the Credit Enhancement then in effect with respect thereto or in connection with the issuance of any Bonds or Subordinated Indebtedness authorized herein, the General Manager or Chief Financial Officer, or any other Authorized Officer, is hereby further authorized to execute and deliver, such documents and instruments (including, without limitation, a credit agreement or other similar document and a fee letter) as shall be determined by the General Manager or Chief Financial Officer, or any other Authorized Officer, to be (a) necessary or desirable and advantageous to the System and (b) in commercially reasonable form, such determination to be confirmed in writing by the firm serving at that time as the System's municipal advisor.

The General Manager or Chief Financial Officer, or any other Authorized Officer, is hereby authorized in accordance with the Resolutions, from time to time to extend the term of any of the Lines of Credit. In connection with any such extension of the term of any of the Lines of Credit, the General Manager or Chief Financial Officer, or any other Authorized Officer, is hereby further authorized to execute and deliver such documents and instruments (including, without limitation, an amendment to or amendment and restatement of the Line of Credit Bonds as shall be determined by the General Manager or Chief Financial Officer, or any other Authorized Officer), to be (a) necessary or desirable and advantageous to the System and (b) in commercially reasonable form; provided, however, that if any such extension shall be on terms and conditions different from the terms and conditions of such Line of Credit as then in effect,

then such determination of the General Manager or Chief Financial Officer, or such other Authorized Officer, shall be confirmed in writing by the firm serving at that time as the System's municipal advisor. Such extension of any Line of Credit may be made by a separate agreement with the provider of such Line of Credit.

The Authority authorizes the procurement of substitute lines of credit in an aggregate principal amount, together with the aggregate principal amount of the lines of credit to be outstanding after the issuance of such substitute line of credit, shall not increase the principal amount available to be drawn thereunder. In connection with procurement of such substitute lines of credit, the General Manager or Chief Financial Officer, or any other Authorized Officer, is hereby further authorized to execute and deliver, such documents and instruments as shall be determined by the General Manager or Chief Financial Officer, or his or her respective designees, to be (a) necessary or desirable and advantageous to the System and (b) in commercially reasonable form, such determination to be confirmed in writing by the firm serving at that time as the System's municipal advisor.

The Authority authorizes advances under any such lines of credit for the purposes specified therein as shall be approved by the General Manager or Chief Financial Officer.

Section 3.10 Escrow Agreements and Investments. In connection with the defeasance of any Bonds, Subordinated Indebtedness or other indebtedness (collectively, the "Defeased Bonds") the Authority authorizes entering into one or more escrow agreements (each "Escrow Deposit Agreement") with U.S. Bank Trust Company, National Association or such other escrow agent as shall be selected by the Authority, on such terms as shall be set forth in the escrow agreement and as shall be approved by or authorized pursuant to a Supplemental Resolution adopted by the Authority.

In connection with the defeasance of the Defeased Bonds, any Authorized Officer is hereby authorized to cause the legally available funds and earnings thereon to be invested in United States Treasury Securities - State and Local Government Series ("SLGS") or other United States Treasury Securities or other obligations permitted to be used to accomplish the defeasance of Defeased Bonds, in such amounts, at such times, maturing at such times and having such rate or rates of interest as such officer shall determine is necessary or desirable; and any authorized officer of the escrow agent or the municipal advisor is hereby authorized in the name and on behalf of the City to submit subscriptions to the Bureau of Public Debt of the United States Department of the Treasury for the purchase of book-entry form SLGS, and to take such other action as such person deems necessary or appropriate to effectuate such purposes or to purchase such other obligations, including, without limitation, the solicitation of bids for the sale of such securities to the City for deposit under the escrow deposit agreement and the engagement of the municipal advisor or such other firm, to solicit such bids is hereby authorized. Each Authorized Officer is hereby authorized to amend or supplement any such Escrow Deposit Agreement to purchase such securities after the deposit of funds therein and to deliver such other certificates, notices and agreements necessary to accomplish the investment of such proceeds. Any Authorized Officer is hereby authorized to irrevocably instruct the escrow agent to file such defeasance and redemption notices as are deemed necessary or desirable.

Section 3.11 Authorizations. The Authorized Officers, collectively or individually, upon satisfaction of the conditions set forth herein and in resolutions adopted by the City, are hereby authorized to execute the Issuer Documents, agreements with DEP in connection with SRF loans, agreements related to the extension, amendment, reissuance, replacement and refunding of the lines of credits currently evidenced by the 2023A Bond, the 2023B Bond and the 2023C Bond, Qualified Hedging Contracts, foreign currency exchange agreements, and such other transactions authorized herein, each subject to completion thereof, and with such changes therein as the officer(s) executing the same may approve as necessary and desirable and in the best interests of the System, such approval to be evidenced by the execution and delivery thereof. The Clerk is hereby requested to cause the seal of the City to be affixed to each foregoing agreements to the extent required by the forms thereof and to attest the same, to the extent required therein. Such officers are each hereby authorized to deliver such agreements on behalf of the City. The Authorized Officers, individually and collectively and the officers, attorneys and other agents or employees of the City are each hereby requested and authorized to do all acts and things required of them by the Bond Resolution, the Issuer Documents or necessary or desirable and not inconsistent with the terms hereof, the Issuer Documents for the full punctual and complete performance of all the terms, covenants and agreements contained herein or in the Issuer Documents, and each Authorized Officer, employee, attorney and officer of the City is hereby authorized and directed to execute and deliver any and all papers and instruments, and to be and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder.

The Mayor is hereby requested to execute any Bonds, Subordinated Indebtedness or other obligations delivered in connection with the transactions authorized herein (collectively, the "Obligations") on behalf of the City, subject to the approval of the City Attorney as to form and legality; *provided, however,* that the Obligations shall be executed and delivered pursuant to the Master Bond Resolution and applicable law. The Clerk is hereby requested to cause the seal of the City to be affixed to each of the Obligations. Such officers are each hereby authorized to deliver such Obligations on behalf of the City. The signatures of the Mayor and Clerk on the Obligations may be a manual or facsimile signature. In case one or more of the officers who have signed or sealed the Obligations shall cease to be such officer of the City before the Obligations so signed and sealed shall have been actually delivered, such Obligations may nevertheless be delivered as herein provided and may be issued as if the person who signed or sealed such Obligations had not ceased to hold such office. The Obligations may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Obligations shall hold the proper office, although at the date of such Obligations such person may not have held such office or may not have been so authorized.

Section 3.12 Notices. The Authorized Officers are hereby authorized and directed to deliver such notices as may be required under the terms of each of the applicable Resolutions as may be necessary to effectuate the transactions described herein, as applicable, and all such prior actions, taken in conformance with the provisions hereof, are hereby ratified.

ARTICLE IV
MISCELLANEOUS

Section 4.01 Further Authority. The Authorized Officers are each hereby authorized to do all acts and things required of them by this Resolution, or otherwise, as may be necessary or desirable to effectuate the transactions described herein for the purposes described herein and to pay all costs related thereto including those referenced in the fee letters, all other legal expenses, expenses for fiscal agents, municipal advisors, accountants and other experts, printing expenses and such other expenses necessary or incidental and incurred in connection therewith. The Authorized Officers, or their respective designees, are each hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder, the City Attorney and/ or other counsel to the Authority is authorized to deliver all opinions necessary or desirable in connection therewith and to approve as to form and legality and the Clerk is authorized to attest such signatures, to certify resolutions, and cause the seal of the City to be affixed to documents as shall be deemed necessary or desirable.

Section 4.02 Severability. If any one or more of the covenants, agreements or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Resolution and the Bond Resolution or of the Bonds and the Subordinated Bonds issued thereunder.

Section 4.03 No Third-Party Beneficiaries. Except as herein otherwise expressly provided, nothing in this Resolution expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto and the owners and holders of the Bonds issued under and secured by the Master Bond Resolution, any right, remedy or claim, legal or equitable, under or by reason of this Resolution or any provision hereof, this Resolution and all its provisions being intended to be and being for the sole and exclusive benefit of the parties hereto and the owners and holders from time to time of the Bonds and the Subordinated Bonds.

Section 4.04 Controlling Law; Members Not Liable. All covenants, stipulations, obligations and agreements contained in this Resolution shall be deemed to be covenants, stipulations, obligations and agreements of the City to the full extent authorized by the Act and provided by the Constitution and laws of the State. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent or employee of the City, including the Authority, in their individual capacity, and neither the members of the Authority nor any official of the City executing any agreements or documents authorized hereby or shall be subject to any personal liability or accountability by reason of the issuance or the execution thereof.

Section 4.05 Request of City Commission to Take Action. The Authority requests that the City Commission adopt a resolution to recognize the governance, operation, management, and control of all utility systems, properties and assets related to the System which

resolution will, among other things, authorize the General Manager or Chief Financial Officer or their respective designees to enter into the transactions contemplated herein. The Authority has determined that such resolution of the City Commission entered into pursuant to this request is necessary in order to reflect the governance, operation, management, and control of all utility systems, properties and assets related to the System by the Authority and is not in any way the City Commission directing or controlling the Authority.

Section 4.06 Effective Date. This Resolution shall be fully effective immediately upon adoption.

PASSED AND ADOPTED IN PUBLIC SESSION OF THE GAINESVILLE REGIONAL UTILITIES AUTHORITY, THIS 18TH DAY OF FEBRUARY, 2026.

GAINESVILLE REGIONAL UTILITIES AUTHORITY

ATTESTED:

By:_____
Eric Lawson, Chairperson

By:_____
Name:_____
Title:_____

APPROVED AS TO FORM AND LEGALITY:

By:_____
Utilities Attorney

APPROVED AS TO FORM AND LEGALITY:

By:_____
City Attorney

#531271146_v10 136433.00040

File Number: 2026-126

Agenda Date: February 18, 2026

Department: Gainesville Regional Utilities

Title: 2026-126 Approval of Code of Business Conduct for the Gainesville Regional Utilities Authority (B)

Department: Gainesville Regional Utilities/General Counsel

Description: The Authority is required to review its code of business conduct (its framework for conducting public meetings) biennially, pursuant to Art. 7.10(7).

At its January 14, 2026 meeting, the Authority directed Vice Chair Haslam to work with Utilities Attorney Derek D. Perry on recommendations to bring forward for Authority discussion at its February 18, 2026 meeting.

Attached herein is:

1. Draft Revised Code of Business Conduct (strikethrough/underline)
2. Draft Revised Board Meeting Protocols for Citizens (strikethrough/underline)
3. Legal Memo Regarding Public Comment

Fiscal Note: None

Recommendation: The GRU Authority review and discuss its code of business conduct and adopt it as is or provide direction on changes.

GRU

DRAFT

UTILITY AUTHORITY

CODE OF BUSINESS CONDUCT MANUAL

GAINESVILLE REGIONAL UTILITIES

Version 1, November 1, 2023

Contents

1. General

1.1 Purpose

The purpose of this Code of Business Conduct Manual ("Manual") is to provide Gainesville Regional Utilities Authority ("Authority") Members ("Members") background and guidance on how the Authority and individual Members shall operate. Much of the initial content of this Manual comes from the language of House Bill-1645 (HB-1645), which established the Authority. This Manual will be periodically updated and augmented as necessary.

If any portion of this Manual conflicts with rules, regulations, or legislation having authority over the Authority, said rules, regulations, or legislation shall prevail.

1.2 Establishment

HB-1645 established the "Gainesville Regional Utilities Authority" ("Authority"). Gainesville Regional Utilities shall be governed by the Authority upon installation of the Authority's Members pursuant to the Bill. The Authority shall operate as a unit of city government and, except as otherwise provided in this article, shall be free from direction and control of the Gainesville City Commission. The Authority is created for the express purpose of managing, operating, controlling, and otherwise having broad authority with respect to the utilities owned by the City of Gainesville.

1.3 Definitions

For the purposes of this Manual, unless otherwise designated, or the context otherwise requires, the following terms have the following meanings:

Authority	Gainesville Regional Utilities Authority
City	City of Gainesville
City Commission	Gainesville City Commission
County	Alachua County
Customer	A person or an entity that makes application for and is supplied with service by GRU for its ultimate use
Flow of funds[1]	The sum of required debt service, necessary operations and management expenses, a reasonable contribution to a utility plan improvement fund, identified service-level agreement (SLA)-related losses, and any other lawful purpose as provided in bond covenants.
Gainesville Regional Utilities Authority	The "Authority," which are the Members together that govern GRU
Government services contribution (GSC)	The portion of revenues generated from rates, fees, assessments, and charges for the provision of utility services by the utility system which is annually transferred by the Authority to the City for use in funding or financing its general government municipal functions

[1] The definition of flow of funds and net revenue in HB-1645 is different than GRU's bond resolution. Until such point that this can be adjusted, GRU will utilize the bond resolution as its governing document for flow of funds. This is required for GRU's bond holders.

GRU	Gainesville Regional Utilities
House Bill-1645	HB-1645 – the Bill that established the Authority
Member	A member of the Authority
Net revenues	The gross revenues less fuel revenues; refer to “Flow of funds” definition and associated footnote on previous page
Service-level agreement (SLA)	A contract entered into by the Authority that establishes a set of deliverables that one party has agreed to provide another
Utilities	The electric utility system, water utility system, wastewater utility system, natural gas utility system, telecommunications utility system, and such other utility systems as may be acquired by GRU in the future

1.4 Powers and Duties

The Authority shall have the following powers and duties, in addition to the powers and duties otherwise conferred in HB-1645:

1.5.1 To manage, operate, and control the utilities through the Chief Executive Officer/General Manager (CEO/GM), see Section 3, and to do all things necessary to effectuate an orderly transition of the management, operation, and control of the utilities from the City Commission to the Authority, consistent with HB-1645.

1.5.2 To establish and amend the rates, fees, assessments, charges, rules, regulations, and policies governing the sale and use of services provided through the utilities.

1.5.3 To acquire real or personal property and to construct such projects as necessary to operate, maintain, enlarge, extend, preserve, and promote the utility systems in a manner that will ensure the economic, responsible, safe, and efficient provision of utility services, provided that title to all such property is vested in the City.

1.5.4 To exercise the power of eminent domain pursuant to Chapter 166, Florida Statutes, and to use utility funds to appropriate or acquire property, excluding federal or state property, for the purpose of obtaining, constructing, and maintaining utility facilities, provided that title to all such property is vested in the City.

1.5.5 To authorize the issuance of revenue bonds and other evidence of indebtedness of the City, secured by the revenues and other pledged funds and accounts of the utility system, pursuant to Florida law. Upon resolution of the Authority establishing the authorized form, terms, and purpose of such bonds, for the purpose of financing or refinancing utility system projects, and to exercise all powers in connection with the authorization of the issuance, and sale of such bonds by the City as conferred upon municipalities by Part II of Chapter 166, Florida Statutes, other applicable state laws, and Section 103 of the Internal Revenue Code of 1986. Such bonds may be validated in accordance with Chapter 75, Florida Statutes. The Authority may not authorize the issuance of general obligation bonds. Such bonds and other forms of indebtedness of the City shall be executed and attested by the officers, employees, or agents of the City, including the Chief Executive Officer/General Manager or Chief Financial Officer of the utility system, the Authority has so designated as agents of the City. The Authority may enter into hedging agreements or options for the purpose of moderating interest rates on existing and proposed indebtedness or price fluctuations of fuel or other commodities, including agreements for the future delivery thereof, or any combinations thereof.

1.5.6 To dispose of utility system assets only to the extent and under the conditions that the City Commission may dispose of such assets pursuant to Section 5.04 of Article V of the City Code.

1.5.7 To prepare and submit to the City Commission, at least three months before the start of the City's fiscal year, an annual budget for all Authority and GRU operations, including the amount of any transfer to the City. The term of the budget shall coincide with the City's fiscal year. The amount of any transfer is subject to the limitations specified in HB-1645.

1.5.8 To appoint, direct, and remove a General Manager or Chief Executive Officer. Authority Members shall not direct Employees.

1.5.9 To recommend, by resolution to the City Commission, the acquisition and operation of a utility system not owned or operated by GRU as of the date of transfer of governing authority to the Authority.

1.5 Policy Review Frequency

The Authority shall develop and review this Manual, including the ethics policy and a code of business conduct at least biennially.

1.6 Referenced Documents

Within this Manual, there are various referenced documents – for instance, GRU's Procurement Policy, Travel Procedures, and Travel Workbook. Any documents referenced in this Manual are available from the General Manager's office upon request.

2. Governance

2.1 Oath

Before taking office for any term, each Member shall be given an oath or affirmation by the Mayor or their designee, similar to the oath or affirmation required of a Member of the City Commission.

2.2 Strategic Plan

The Authority will oversee implementation of the Strategic Plan, which includes GRU's Mission, Vision, Culture, and Strategic Objectives. The Strategic Plan shall be reviewed annually and updated at a minimum every five years, or more frequently if deemed necessary by the Authority. The Strategic Plan will establish specific goals and objectives and define measures of effectiveness for GRU.

2.3 Ethics

Members of the Authority are subject to the "Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes). The purpose of this Code of Ethics is to protect the integrity of the government by ensuring that public officials conduct themselves efficiently and faithfully and according to the highest standards of ethics.

2.4 Code of Conduct

This Authority commits itself to lawful and ethical conduct, following the Florida law and City Ordinances. Authority Members shall comply with the following principals and standards at minimum:

- Members shall comply with the Florida Sunshine Law.
- The dignity, values, culture, and opinions of each Member shall be respected.
- Members shall be prepared for meetings and contribute their input to the decisions at hand.
- Members shall develop a working relationship with the CEO/GM.
- Members shall treat citizens with courtesy and respect.
- When considering items related to safety, concerns for safety or hazards shall be reported to the CEO/GM.
- When approached by GRU personnel concerning specific policy or operation items, Members shall direct the personnel to the CEO/GM.
- When approached by vendors or contractors, Members shall direct them to the CEO/GM.

2.4.1 Conflicts of Interest

Authority Members are required to avoid conflicts of interest. These conflicts extend to the Member's immediate family (spouse, children, parents). This includes, but are not limited to:

- No Member shall be an employee of GRU.
- No Member shall vote on any measure which provides them special gain or to the special gain of any principal by who they are retained.
- No Member shall have business dealings with an entity that might reasonably seem to represent a conflict of interest.
- No Member shall have a have a contractual relationship with GRU (directly or indirectly) during their tenure and for 2 years following the end of the Member's time serving the Authority.

If a conflict arises on an issue which a Member has an unavoidable conflict of interest, that Member shall notify the City Authority ahead of the meeting and declare the conflict publicly. The Member shall recuse themselves from deliberation on the item and withdraw without comment from the vote.

Members who have any question about the appropriateness of their conduct should consult with the City Attorney for more information.

2.5 Purchases Requiring Authority Approval

Per GRU policy, every purchase of an item of materials, equipment, services, and extensions to existing contracts with a value greater than $100,000 shall require approval by the Authority, except for the following:

- Any adjustment to a contract or purchase order previously approved by the Authority which does not increase the cost more than ten (10%) percent of the previously approved amount.
- Purchases of fuels used in operating plants and equipment or for the delivery of customer services, including petroleum products and fuel oil for generation; coal meeting environmental requirements at the lowest delivered price per BTU available and the transportation thereof; and natural gas and liquefied petroleum gas at the lowest delivered price per BTU available and the transportation thereof; also natural gas rebates.
- Purchases of materials, equipment or services used for the operation and maintenance of utility plants, distribution and collection facilities, substations, lift stations, gate stations, and purchases of standard materials.
- Purchases for the repair and maintenance of system-wide computer software and hardware.
- Purchases for or related to the expansion, operation or maintenance of the fiber optic of other telecommunication systems and contracts for telecommunication access, transport, and other services.
- Purchases for maintenance of fleet equipment and used vehicles.
- Materials, equipment or services purchased under public agency cooperative purchasing contracts, agreements or consortiums.
- Utility services when the subject utility is the only available source of such service.
- Emergency purchases as defined in this policy.
- Purchases and contracts for construction projects when the cost of the construction project does not exceed $300,000.

Reports shall be made to the Authority of any purchase of materials, equipment or services greater than $100,000 for which Authority approval has not been obtained.

Reports shall be made to the Authority of any Bid Protest for purchases that do not require approval of the Authority.

3. Management and Personnel

3.1 General Manager

A Chief Executive Officer/General Manager (CEO/GM) shall direct and administer all utility functions, subject to the rules and resolutions of the Authority. The CEO/GM shall serve at the pleasure of the Authority. Appointment or removal of the CEO/GM shall be by majority vote of the Authority. Until such time as the Authority appoints a CEO/GM, the sitting General Manager (GM) of GRU shall serve as the CEO/GM. A sitting Member of the Authority may not be selected as the CEO/GM.

3.2 Salary

The Authority shall fix the salary of the CEO/GM, and the CEO/GM shall fix the salaries of all other employees who serve under their direction consistent with the annual budget approved by the Authority.

3.3 Employee Rights and Benefits

All officers and employees of the City who serve under the supervision and direction of the sitting GM of GRU shall serve under the CEO/GM. The CEO/GM shall have the exclusive authority to hire, transfer, promote, discipline, or terminate employees under his or her supervision and direction.

The sitting GM of GRU, as well all officers and employees of the City, who by virtue of HB-1645, become subject to the supervision and direction of the CEO/GM, shall continue without any loss of rights or benefits as employees under the pension plans and civil service merit system of the City existing as of the creation of the Authority.

4. Authority Organization

4.1 Authority Members

There shall be five members of the Authority appointed by the Governor. Each Member shall be a person of recognized ability and good business judgment as identified by the Governor who is expected to perform their official duties in the best interests of GRU and its customers. Appointments shall be made as follows:

- One Member shall be a residential customer with substantial knowledge of GRU, its operations, and its history.
- One Member shall be a private, nongovernment customer consuming at least 10,000 kilowatt hours per month of electric usage during each of the previous 12 months. This Member may be the owner or representative of the customer.
- Three Members shall be competent and knowledgeable in one or more specific fields substantially related to the duties and functions of the Authority, including, but not limited to, law, economics, accounting, engineering, finance, or energy.

All Members of the Authority shall:

- Maintain primary residence within the electric service territory of GRU's electric utility system.
- Receive GRU electric utility system service at all times during the term of appointment.
- Not have been convicted of a felony as defined by general law.
- Be a qualified elector of the City, except that a minimum of one Member must be a resident of the unincorporated area of the county or a municipality in the county other than the City of Gainesville.

The composition of the Authority shall be adjusted upon expiration of any Member's term, or upon any Authority vacancy, to reflect the ratio of total electric meters serving GRU electric customers outside the City's jurisdictional boundaries to total electric meters serving all GRU electric customers. For example, upon expiration of a Member's term or upon an Authority vacancy, if the ratio of total electric meters serving customers outside the City boundaries to total electric meters serving all electric customers reaches 40 percent, the Governor must appoint a second Member from outside the City boundaries to serve the next term that would otherwise be served by a qualified elector of the City. Conversely, upon expiration of any Member's term or upon any Authority vacancy, if the ratio subsequently falls below 40 percent, the Governor must appoint a qualified elector of the City to serve the next term that otherwise would have been served by a resident from outside the City boundaries.

4.2 Member Nominations and Terms

The Governor shall have a citizen nomination solicitation period for at least 30 days and appoint Members for subsequent terms from among the nominees. Members appointed for subsequent terms shall be appointed for 4-year terms commencing at 12 a.m. on October 1 of the year in which they are appointed. If a Member is appointed to complete an unexpired term, the Member's term shall commence at the time of appointment and shall continue through the remainder of the unexpired term.

The Governor shall fill any vacancy for the unexpired portion of a term within 60 days after the vacancy occurs if the remainder of the term exceeds 90 days.

4.3 Authority Officers

The first official action of the Authority shall be election of a Chairperson and a Vice Chairperson from among its membership. The election of a Chair and Vice Chair shall be revisited annually in October as new Members join the Authority.

4.4 Removal and Suspensions of Members

A Member may be removed or suspended from office by the Governor in accordance with Chapter 112.501, Florida Statutes. In addition to the grounds for removal set forth therein, a Member may be removed by the Governor for failure to maintain the qualifications specified in Section 7.04 of HB-1645.

The Authority may recommend to the Governor that a Member be removed or suspended from office if it finds, by vote of at least three Members, a reasonable basis for removal or suspension on one or more of the grounds set forth in Chapter 112.501, Florida Statutes, or for failure to maintain the qualifications specified in Section 7.04 of HB-1645. The Authority shall give reasonable notice of any proceeding in which such action is proposed and must provide the Member against whom such action is proposed a written statement of the basis for the proposed action and an opportunity to be heard. The Member against whom such action is proposed may not participate in the Authority's debate or vote on the matter.

4.5 Travel & Compensation

Beginning October 1, 2023, necessary expenses of Members incurred in carrying out and conducting the business of the Authority shall be paid in accordance with Authority rules and bylaws in this Manual, subject to the approval of a majority of the Members of the Authority. No supplemental benefits shall be provided for a Member position.

4.5.1 Expenses

Authority Members shall submit documentation of any expenses related to carrying out and conducting business of the Authority for reimbursement as established in GRU's Administrative Guidelines – Section IV: Miscellaneous Special Events and Business Expenses.

4.5.2 Travel Policy

Authority Members shall comply with GRU's Travel Procedures and Travel Workbook when carrying out and conducting business of the Authority.

5. Meeting Structure

5.1 Meeting Arrangements

The GRU GM or their designee shall be responsible for arranging meetings of the Authority, and for providing adequate advance notice.

5.2 Frequency

The Authority shall meet at least once each month, except in case of unforeseen circumstances. All meetings of the Authority shall be noticed and open to the public, and minutes shall be kept as required by law, except that meetings related to settlement of then existing litigation may be held as allowed by law.

5.3 Attendance

Any Member of the Authority who has had three or more consecutive absences from regular monthly meeting shall be considered to be in "neglect" of duty.

5.3.1 Appeal of Neglect of Duty Determination

A Member determined to be in neglect of duty as described above may appeal to the full Board at a regular monthly meeting and request approval of the three consecutive absences.

5.3.2 Notification of Neglect

Should a Member be in neglect of duty as defined herein, the appointing Authority shall be notified.

5.4 Public Comment

During each general public comment period and during each agenda item, the public shall be given an opportunity to comment.

General public comment shall be limited to items not on the agenda. Public comment on agenda items shall be limited to the item under consideration by the Authority. A person who has addressed the Authority during one general public comment period in a meeting will be recognized by the Chair to speak after other persons who have not spoken are given the opportunity to address the Authority, time permitting.

Any person desiring to address the Authority shall first request recognition by the Chair. After being recognized, the person (1) shall give his/her name in an audible tone of voice; (2) shall limit the address to any time limitation established; and (3) shall address all remarks to the Authority as a body and not to any Member thereof. No person other than a Member of the Authority and the person having the floor for comment shall be permitted to speak without permission of the Chair. No question shall be asked except through the Chair.

The public comment period shall allow for up to three minutes per person per agenda item. Other time limits may be established by the Chair based on the number of participants. In addition, the Chair may adopt a time limitation to provide equal time for opponents and proponents speaking to any particular issue.

5.5 Order of Business

Call to Order. The order of business at Regular Meetings shall be as follows, except as modified by the Authority during the adoption of the agenda for that meeting:

- Call to Order
- Roll Call
- Invocation
- Pledge
- General Public Comment (for items not on the agenda; not to exceed 30 minutes total)
- Approval of Consent Agenda
- Adoption of Agenda
- Approval of Minutes of Previous Meeting
- Member Comment
- Adjournment

5.6 Agenda

The Agenda and backup materials shall be provided to the Authority Members five days before the meeting.

5.7 Minutes

The Authority shall record, store, approve, and make publicly available minutes from all its meetings.

5.8 Rules of Order

Authority meetings will be conducted in an orderly and fair process consistent with the requirements of Florida law, Ordinances of the City of Gainesville and these governance rules and bylaws.

Meetings will be led by the Chair, or, in the absence of the Chair, the Vice-Chair, or, in the absence of both, by the Chair's designee.

Authority meetings will be conducted with punctuality and order.

- Authority meetings shall be called to order at the time specified in the notice of meeting and upon satisfaction of a quorum.
- Meeting order shall be maintained and all Members treated with dignity, respect, courtesy, and fairness during discussion and debate and in all other respects.
- Authority Members must keep their comments relevant to the issue under consideration.
- In order to conduct business, a quorum of three Authority Members must be present. Three affirmative votes are required to decide all motions before the Authority regardless of the number of Members in attendance.

Authority meetings will be conducted in accordance with the agenda by the Chair, unless a change is approved by the Authority during the meeting.

- Each Member desiring to speak shall address the Chair.
- Discussion of a matter not on the previously distributed agenda may occur only after Authority consent that the matter be heard.
- Proposals that the Authority take action, or decide a particular matter, shall (unless otherwise agreed to by unanimous consent) be made by main motion of an Authority Member, discussed, and then voted on. Motions require a second to proceed to discussion and subsequent vote.
- If the Chair desires to make a motion or second a motion, the Chair shall designate another Member of the Authority to serve as Chair, until he/she has finished his/her motion or second.
- Authority Members may speak to a pending motion on as many occasions, and at such length, as the Chair may reasonably allow.

- A vote on a motion shall be taken when discussion ends, but any Authority Member may, during the course of debate, move for an immediate vote, which shall be put in this form: "I move that we vote immediately." This motion can apply to any pending debatable or amendable motion(s). Further, any motion to vote immediately:
  1) must be seconded;
  2) is not debatable;
  3) cannot interrupt a speaker;
  4) requires a minimum of three Members voting in favor, of the Members present (because it prevents or cuts off debate);
  5) takes precedence over all subsidiary motions except one postponed temporarily; and
  6) can have no motion applied to it except withdraw. All motions or amendments thereto shall be reduced to writing, by the Clerk, upon request of a Member of the Authority.
- A motion to adjourn an Authority meeting may be offered by any Authority Member or, on the conclusion of all business, adjournment of the meeting may be declared by the Chair.
- Once a motion has been made and seconded by the Authority, a period of public comment will begin. Each speaker will speak about the business item pertaining to the motion within their allotted time limit. Once public comment is over, the Authority will vote on the motion.

When further rules of order are to be developed by the Board, the Board will consider the Standard Code of Parliamentary Procedure (Robert's Rules of Order) as a resource guide.

More than Energy

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UTILITIES~~Y~~ AUTHORITY

CODE OF BUSINESS CONDUCT MANUAL

GAINESVILLE REGIONAL UTILITIES

Version ~~1~~2, ~~November~~ February 18, 202~~3~~3

Contents

1. General

1.1 Purpose

The purpose of this Code of Business Conduct Manual ("Manual") is to provide Gainesville Regional Utilities Authority ("Authority") Members ("Members") background and guidance on how the Authority and individual Members shall operate. Much of the initial content of this Manual comes from the language of House Bill-1645 (HB-1645), which established the Authority. This Manual will be periodically updated and augmented as necessary.

If any portion of this Manual conflicts with rules, regulations, or legislation having authority over the Authority, said rules, regulations, or legislation shall prevail.

1.2 Establishment

HB-1645 established the "Gainesville Regional Utilities Authority" ("Authority"). Gainesville Regional Utilities shall be governed by the Authority upon installation of the Authority's Members pursuant to the Bill. The Authority shall operate as a unit of city government and, except as otherwise provided in this article, shall be free from direction and control of the Gainesville City Commission. The Authority is created for the express purpose of managing, operating, controlling, and otherwise having broad authority with respect to the utilities owned by the City of Gainesville.

1.3 Definitions

For the purposes of this Manual, unless otherwise designated, or the context otherwise requires, the following terms have the following meanings:

Authority	Gainesville Regional Utilities Authority
City	City of Gainesville
City Commission	Gainesville City Commission
County	Alachua County
Customer	A person or an entity that makes application for and is supplied with service by GRU for its ultimate use
Flow of funds[1]	The sum of required debt service, necessary operations and management expenses, a reasonable contribution to a utility plan improvement fund, identified service-level agreement (SLA)-related losses, and any other lawful purpose as provided in bond covenants.
Gainesville Regional Utilities Authority	The "Authority," which are the Members together that govern GRU
Government services contribution (GSC)	The portion of revenues generated from rates, fees, assessments, and charges for the provision of utility services by the utility system which is annually transferred by the Authority to the City for use in funding or financing its general government municipal functions

[1] The definition of flow of funds and net revenue in HB-1645 is different than GRU's bond resolution. Until such point that this can be adjusted, GRU will utilize the bond resolution as its governing document for flow of funds. This is required for GRU's bond holders.

GRU	Gainesville Regional Utilities
House Bill-1645	HB-1645 – the Bill that established the Authority
Member	A member of the Authority
Net revenues	The gross revenues less fuel revenues; refer to “Flow of funds” definition and associated footnote on previous page
Service-level agreement (SLA)	A contract entered into by the Authority that establishes a set of deliverables that one party has agreed to provide another
Utilities	The electric utility system, water utility system, wastewater utility system, natural gas utility system, telecommunications utility system, and such other utility systems as may be acquired by GRU in the future

1.4 Powers and Duties

The Authority shall have the following powers and duties, in addition to the powers and duties otherwise conferred in HB-1645:

1.5.1 To manage, operate, and control the utilities through the Chief Executive Officer/General Manager (CEO/GM), see Section 3, and to do all things necessary to effectuate an orderly transition of the management, operation, and control of the utilities from the City Commission to the Authority, consistent with HB-1645.

1.5.2 To establish and amend the rates, fees, assessments, charges, rules, regulations, and policies governing the sale and use of services provided through the utilities.

1.5.3 To acquire real or personal property and to construct such projects as necessary to operate, maintain, enlarge, extend, preserve, and promote the utility systems in a manner that will ensure the economic, responsible, safe, and efficient provision of utility services, provided that title to all such property is vested in the City.

1.5.4 To exercise the power of eminent domain pursuant to Chapter 166, Florida Statutes, and to use utility funds to appropriate or acquire property, excluding federal or state property, for the purpose of obtaining, constructing, and maintaining utility facilities, provided that title to all such property is vested in the City.

1.5.5 To authorize the issuance of revenue bonds and other evidence of indebtedness of the City, secured by the revenues and other pledged funds and accounts of the utility system, pursuant to Florida law. Upon resolution of the Authority establishing the authorized form, terms, and purpose of such bonds, for the purpose of financing or refinancing utility system projects, and to exercise all powers in connection with the authorization of the issuance, and sale of such bonds by the City as conferred upon municipalities by Part II of Chapter 166, Florida Statutes, other applicable state laws, and Section 103 of the Internal Revenue Code of 1986. Such bonds may be validated in accordance with Chapter 75, Florida Statutes. The Authority may not authorize the issuance of general obligation bonds. Such bonds and other forms of indebtedness of the City shall be executed and attested by the officers, employees, or agents of the City, including the Chief Executive Officer/General Manager or Chief Financial Officer of the utility system, the Authority has so designated as agents of the City. The Authority may enter into hedging agreements or options for the purpose of moderating interest rates on existing and proposed indebtedness or price fluctuations of fuel or other commodities, including agreements for the future delivery thereof, or any combinations thereof.

1.5.6 To dispose of utility system assets only to the extent and under the conditions that the City Commission may dispose of such assets pursuant to Section 5.04 of Article V of the City Code.

1.5.7 To prepare and submit to the City Commission, at least three months before the start of the City's fiscal year, an annual budget for all Authority and GRU operations, including the amount of any transfer to the City. The term of the budget shall coincide with the City's fiscal year. The amount of any transfer is subject to the limitations specified in HB-1645.

1.5.8 To appoint, direct, and remove a General Manager or Chief Executive Officer. Authority Members shall not direct Employees.

1.5.9 To recommend, by resolution to the City Commission, the acquisition and operation of a utility system not owned or operated by GRU as of the date of transfer of governing authority to the Authority.

1.5 Policy Review Frequency

The Authority shall develop and review this Manual, including the ethics policy and a code of business conduct at least biennially.

1.6 Referenced Documents

Within this Manual, there are various referenced documents – for instance, GRU's Procurement Policy, Travel Procedures, and Travel Workbook. Any documents referenced in this Manual are available from the General Manager's office upon request.

2. Governance

2.1 Oath

Before taking office for any term, each Member shall be given an oath or affirmation by the Mayor or their designee, similar to the oath or affirmation required of a Member of the City Commission.

2.2 Strategic Plan

The Authority will oversee implementation of the Strategic Plan, which includes GRU's Mission, Vision, Culture, and Strategic Objectives. The Strategic Plan shall be reviewed annually and updated at a minimum every five years, or more frequently if deemed necessary by the Authority. The Strategic Plan will establish specific goals and objectives and define measures of effectiveness for GRU.

2.3 Ethics

Members of the Authority are subject to the "Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes). The purpose of this Code of Ethics is to protect the integrity of the government by ensuring that public officials conduct themselves efficiently and faithfully and according to the highest standards of ethics.

2.4 Code of Conduct

This Authority commits itself to lawful and ethical conduct, following the Florida law and City Ordinances. Authority Members shall comply with the following principals and standards at minimum:

- Members shall comply with the Florida Sunshine Law.
- The dignity, values, culture, and opinions of each Member shall be respected.
- Members shall be prepared for meetings and contribute their input to the decisions at hand.
- Members shall develop a working relationship with the CEO/GM.
- Members shall treat citizens with courtesy and respect.
- When considering items related to safety, concerns for safety or hazards shall be reported to the CEO/GM.
- When approached by GRU personnel concerning specific policy or operation items, Members shall direct the personnel to the CEO/GM.
- When approached by vendors or contractors, Members shall direct them to the CEO/GM.

2.4.1 Conflicts of Interest

Authority Members are required to avoid conflicts of interest. These conflicts extend to the Member's immediate family (spouse, children, parents). This includes, but are not limited to:

- No Member shall be an employee of GRU.
- No Member shall vote on any measure which provides them special gain or to the special gain of any principal by who they are retained.
- No Member shall have business dealings with an entity that might reasonably seem to represent a conflict of interest.
- No Member shall have a have a contractual relationship with GRU (directly or indirectly) during their tenure and for 2 years following the end of the Member's time serving the Authority.

If a conflict arises on an issue which a Member has an unavoidable conflict of interest, that Member shall notify the City Authority ahead of the meeting and declare the conflict publicly. The Member shall recuse themselves from deliberation on the item and withdraw without comment from the vote.

Members who have any question about the appropriateness of their conduct should consult with the City Attorney for more information.

2.5 Purchases Requiring Authority Approval

Per GRU policy, every purchase of an item of materials, equipment, services, and extensions to existing contracts with a value greater than $100,000 shall require approval by the Authority, except for the following:

- Any adjustment to a contract or purchase order previously approved by the Authority which does not increase the cost more than ten (10%) percent of the previously approved amount.
- Purchases of fuels used in operating plants and equipment or for the delivery of customer services, including petroleum products and fuel oil for generation; coal meeting environmental requirements at the lowest delivered price per BTU available and the transportation thereof; and natural gas and liquefied petroleum gas at the lowest delivered price per BTU available and the transportation thereof; also natural gas rebates.
- Purchases of materials, equipment or services used for the operation and maintenance of utility plants, distribution and collection facilities, substations, lift stations, gate stations, and purchases of standard materials.
- Purchases for the repair and maintenance of system-wide computer software and hardware.
- Purchases for or related to the expansion, operation or maintenance of the fiber optic of other telecommunication systems and contracts for telecommunication access, transport, and other services.
- Purchases for maintenance of fleet equipment and used vehicles.
- Materials, equipment or services purchased under public agency cooperative purchasing contracts, agreements or consortiums.
- Utility services when the subject utility is the only available source of such service.
- Emergency purchases as defined in this policy.
- Purchases and contracts for construction projects when the cost of the construction project does not exceed $300,000.

Reports shall be made to the Authority of any purchase of materials, equipment or services greater than $100,000 for which Authority approval has not been obtained.

Reports shall be made to the Authority of any Bid Protest for purchases that do not require approval of the Authority.

3. Management and Personnel

3.1 General Manager

A Chief Executive Officer/General Manager (CEO/GM) shall direct and administer all utility functions, subject to the rules and resolutions of the Authority. The CEO/GM shall serve at the pleasure of the Authority. Appointment or removal of the CEO/GM shall be by majority vote of the Authority. Until such time as the Authority appoints a CEO/GM, the sitting General Manager (GM) of GRU shall serve as the CEO/GM. A sitting Member of the Authority may not be selected as the CEO/GM.

3.2 Salary

The Authority shall fix the salary of the CEO/GM, and the CEO/GM shall fix the salaries of all other employees who serve under their direction consistent with the annual budget approved by the Authority.

3.3 Employee Rights and Benefits

All officers and employees of the City who serve under the supervision and direction of the sitting GM of GRU shall serve under the CEO/GM. The CEO/GM shall have the exclusive authority to hire, transfer, promote, discipline, or terminate employees under his or her supervision and direction.

The sitting GM of GRU, as well all officers and employees of the City, who by virtue of HB-1645, become subject to the supervision and direction of the CEO/GM, shall continue without any loss of rights or benefits as employees under the pension plans and civil service merit system of the City existing as of the creation of the Authority.

4. Authority Organization

4.1 Authority Members

There shall be five members of the Authority appointed by the Governor. Each Member shall be a person of recognized ability and good business judgment as identified by the Governor who is expected to perform their official duties in the best interests of GRU and its customers. Appointments shall be made as follows:

- One Member shall be a residential customer with substantial knowledge of GRU, its operations, and its history.
- One Member shall be a private, nongovernment customer consuming at least 10,000 kilowatt hours per month of electric usage during each of the previous 12 months. This Member may be the owner or representative of the customer.
- Three Members shall be competent and knowledgeable in one or more specific fields substantially related to the duties and functions of the Authority, including, but not limited to, law, economics, accounting, engineering, finance, or energy.

All Members of the Authority shall:

- Maintain primary residence within the electric service territory of GRU's electric utility system.
- Receive GRU electric utility system service at all times during the term of appointment.
- Not have been convicted of a felony as defined by general law.
- Be a qualified elector of the City, except that a minimum of one Member must be a resident of the unincorporated area of the county or a municipality in the county other than the City of Gainesville.

The composition of the Authority shall be adjusted upon expiration of any Member's term, or upon any Authority vacancy, to reflect the ratio of total electric meters serving GRU electric customers outside the City's jurisdictional boundaries to total electric meters serving all GRU electric customers. For example, upon expiration of a Member's term or upon an Authority vacancy, if the ratio of total electric meters serving customers outside the City boundaries to total electric meters serving all electric customers reaches 40 percent, the Governor must appoint a second Member from outside the City boundaries to serve the next term that would otherwise be served by a qualified elector of the City. Conversely, upon expiration of any Member's term or upon any Authority vacancy, if the ratio subsequently falls below 40 percent, the Governor must appoint a qualified elector of the City to serve the next term that otherwise would have been served by a resident from outside the City boundaries.

4.2 Member Nominations and Terms

The Governor shall have a citizen nomination solicitation period for at least 30 days and appoint Members for subsequent terms from among the nominees. Members appointed for subsequent terms shall be appointed for 4-year terms commencing at 12 a.m. on October 1 of the year in which they are appointed. If a Member is appointed to complete an unexpired term, the Member's term shall commence at the time of appointment and shall continue through the remainder of the unexpired term.

The Governor shall fill any vacancy for the unexpired portion of a term within 60 days after the vacancy occurs if the remainder of the term exceeds 90 days.

4.3 Authority Officers

The first official action of the Authority shall be election of a Chairperson and a Vice Chairperson from among its membership. The election of a Chair and Vice Chair shall be revisited annually in October as new Members join the Authority.

4.4 Removal and Suspensions of Members

A Member may be removed or suspended from office by the Governor in accordance with Chapter 112.501, Florida Statutes. In addition to the grounds for removal set forth therein, a Member may be removed by the Governor for failure to maintain the qualifications specified in Section 7.04 of HB-1645.

The Authority may recommend to the Governor that a Member be removed or suspended from office if it finds, by vote of at least three Members, a reasonable basis for removal or suspension on one or more of the grounds set forth in Chapter 112.501, Florida Statutes, or for failure to maintain the qualifications specified in Section 7.04 of HB-1645. The Authority shall give reasonable notice of any proceeding in which such action is proposed and must provide the Member against whom such action is proposed a written statement of the basis for the proposed action and an opportunity to be heard. The Member against whom such action is proposed may not participate in the Authority's debate or vote on the matter.

4.5 Travel & Compensation

Beginning October 1, 2023, necessary expenses of Members incurred in carrying out and conducting the business of the Authority shall be paid in accordance with Authority rules and bylaws in this Manual, subject to the approval of a majority of the Members of the Authority. No supplemental benefits shall be provided for a Member position.

4.5.1 Expenses

Authority Members shall submit documentation of any expenses related to carrying out and conducting business of the Authority for reimbursement as established in GRU's Administrative Guidelines – Section IV: Miscellaneous Special Events and Business Expenses.

4.5.2 Travel Policy

Authority Members shall comply with GRU's Travel Procedures and Travel Workbook when carrying out and conducting business of the Authority.

5. Meeting Structure

5.1 Meeting Arrangements

The GRU CEO/GM or their designee shall be responsible for arranging meetings of the Authority, and for providing adequate advance notice.

5.2 Frequency

The Authority shall meet at least once each month, except in case of unforeseen circumstances. All meetings of the Authority shall be noticed and open to the public, and minutes shall be kept as required by law, except that meetings related to settlement of then existing litigation may be held as allowed by law.

5.3 Attendance

Any Member of the Authority who has had three or more consecutive absences from regular monthly meeting shall be considered to be in "neglect" of duty.

5.3.1 Appeal of Neglect of Duty Determination

A Member determined to be in neglect of duty as described above may appeal to the full Board at a regular monthly meeting and request approval of the three consecutive absences.

5.3.2 Notification of Neglect

Should a Member be in neglect of duty as defined herein, the appointing Authority shall be notified.

5.4 Public Comment

During each general public comment period and during each agenda item, the public shall be given an opportunity to comment.

General public comment shall be limited to items not on the agenda. Public comment on agenda items shall be limited to the item under consideration by the Authority. A person who has addressed the Authority during one general public comment period in a meeting will be recognized by the Chair to speak after other persons who have not spoken are given the opportunity to address the Authority, time permitting.

Any person desiring to address the Authority shall first request recognition by the Chair. After being recognized, the person (1) shall give his/her name in an audible tone of voice; (2) shall limit the address to any time limitation established; and (3) shall address all remarks to the Authority as a body and not to any Member thereof. No person other than a Member of the Authority and the person having the floor for comment shall be permitted to speak without permission of the Chair. No question shall be asked except through the Chair.

The public comment period shall allow for up to ~~three~~two minutes per person per agenda item. Other time limits may be established by the Chair based on the number of participants. In addition, the Chair may adopt a time limitation to provide equal time for opponents and proponents speaking to any particular issue.

5.5 Order of Business

Call to Order. The order of business at Regular Meetings shall be as follows, except as otherwise organized at the discretion of the Chairperson or CEO/GM before being published, or otherwise modified by the Authority during the adoption of the agenda for that meeting:

- Call to Order
- Roll Call
- Invocation
- Pledge
- ~~General Public Comment (for items not on the agenda; not to exceed 30 minutes total)~~
- ~~Approval of Consent Agenda~~
- Adoption of Agenda
- Approval of Minutes of Previous Meeting
- Chair Comments
- Member Comments
- CEO Comments
- Attorney Comments
- Approval of Consent Agenda
- Business Discussion Items
- Resolutions
- General Public Comment (for items not on the agenda; not to exceed 30 minutes total)
- Member Comments
- Adjournment

5.6 Agenda

The Agenda and backup materials shall be provided to the Authority Members at least five days before the meeting.

5.7 Minutes

The Authority shall record, store, approve, and make publicly available minutes from all its meetings.

5.8 Rules of Order

Authority meetings will be conducted in an orderly and fair process consistent with the requirements of Florida law, Authority Resolutions (superseding or otherwise), Ordinances of the City of Gainesville, and these governance rules and bylaws.

Meetings will be led by the Chair, or, in the absence of the Chair, the Vice-Chair, or, in the absence of both, by the Chair's designee.

Authority meetings will be conducted with punctuality and order.

- Authority meetings shall be called to order at the time specified in the notice of meeting and upon satisfaction of a quorum.
- Meeting order shall be maintained and all Members treated with dignity, respect, courtesy, and fairness during discussion and debate and in all other respects.
- Authority Members must keep their comments relevant to the issue under consideration.
- In order to conduct business, a quorum of three Authority Members must be present. Three affirmative votes are required to decide all motions before the Authority regardless of the number of Members in attendance.

Authority meetings will be conducted in accordance with the agenda by the Chair, unless a change is approved by the Authority during the meeting.

- Each Member desiring to speak shall address the Chair.

- Discussion of a matter not on the previously distributed agenda may occur only after Authority consent that the matter be heard.
- Proposals that the Authority take action, or decide a particular matter, shall (unless otherwise agreed to by unanimous consent) be made by main motion of an Authority Member, discussed, and then voted on. Motions require a second to proceed to discussion and subsequent vote.
- If the Chair desires to make a motion or second a motion, the Chair shall designate another Member of the Authority to serve as Chair, until he/she has finished his/her motion or second.
- Authority Members may speak to a pending motion on as many occasions, and at such length, as the Chair may reasonably allow.

- A vote on a motion shall be taken when discussion ends, but any Authority Member may, during the course of debate, move for an immediate vote, which shall be put in this form: "I move that we vote immediately." This motion can apply to any pending debatable or amendable motion(s). Further, any motion to vote immediately:
  1) must be seconded;
  2) is not debatable;
  3) cannot interrupt a speaker;
  4) requires a minimum of three Members voting in favor, of the Members present (because it prevents or cuts off debate);
  5) takes precedence over all subsidiary motions except one postponed temporarily; and
  6) can have no motion applied to it except withdraw. All motions or amendments thereto shall be reduced to writing, by the Clerk, upon request of a Member of the Authority.
- A motion to adjourn an Authority meeting may be offered by any Authority Member or, on the conclusion of all business, adjournment of the meeting may be declared by the Chair.
- Once a motion has been made and seconded by the Authority, a period of public comment will begin. Each speaker will speak about the business item pertaining to the motion within their allotted time limit. Once public comment is over, the Authority will vote on the motion.

When further rules of order are to be developed by the Board, the Board will consider the Standard Code of Parliamentary Procedure (Robert's Rules of Order) as a resource guide.

GRU℠

More than Energy

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GRUA Board Meeting Protocols for Citizens

What are the rules for comments?

- Public comments are taken after a motion is on the floor or during the General Public Comment agenda item
- Comments will only be taken on the final motion before a vote
- Comments must be reasonably related to the specific action being considered
- Comments are not taken during procedural and administrative votes

Please Do:

- Begin your public comment by stating your name clearly for the record
- Address your comment to the Chairman of the meeting
- Keep your comment to a total of ~~three~~ two (~~3~~2) minutes**

Please Don't:

- Use signs, props, cheering or booing
- Bring food or drinks into the meeting room
- ~~Use discourteous, disrespectful or disparaging conduct or comments~~
- Engage in disruptive behavior (shouting, refusing to yield, or physically disruptive acts)
- Direct comments to other Directors, CEO, Attorney, staff or audience members

How long can I speak at the podium? **

- All comments made by the public are kept to ~~three~~ two (~~2~~3) minutes.
  - Time starts after you have introduced yourself by name

Where do I stand?

- Stand at the podium when it's your turn to speak
- Use the "On Deck" approach for waiting to speak; line up behind the speaker ahead of you
- There are three (3) lights, on the wall, directly in front of you, that will guide you in regard to the time you have left to speak.
  - Green light: ~~3~~ 2 minutes – 1 minute
  - Yellow light: 59 seconds – 1 second
  - Red, accompanied by a beeping noise: 0 – Your time is up

General Matters:

- In the event of fire or an emergency, you may exit out of the north entrance, the door to the west, or at the rear of the meeting room, through the Audio-Visual Room.
- Conversations are to be held out in the lobby and not during the meeting while others are speaking or presenting.
- Restrooms are located through the lobby.
- Please silence all electronic devices.
- Please clean up after yourself and leave the room as it was when you entered. Trash cans are located in the room and in the lobby, on your way out.

** The GRUA Chairman reserves the authority to adjust the time allotted for individual speakers in the event that multiple participants wish to address a particular topic. While this may result in reduced speaking time per individual, it ensures broader participation and promotes a respectful use of everyone's time.**

GRU More than Energy

GAINESVILLE REGIONAL UTILITIES

Office of the Utilities Attorney

DATE: February 13, 2026

TO: Gainesville Regional Utilities Authority Board

FROM: Derek D. Perry, Utilities Attorney

SUBJECT: Public Comment

There has been general discussion about balancing the public's First Amendment rights, free speech, and Florida's Sunshine Law, with the Board's desire to promote decorum, conduct business, and set expectations.

An Authority meeting is considered a *limited public forum* where public comment restrictions on speech must be viewpoint neutral and reasonable in light of the meeting's purpose.

Governments must define key terms, provide official guidance, and refrain from relying on discretion when enforcing any restrictions; and "[e]nduring speech that irritates, frustrates, or even offends is a 'necessary cost of freedom.'" *Moms for Liberty - Brevard Cnty., FL v. Brevard Pub. Sch.*, 118 F.4th 1324, 1332, 1335 (11th Cir. 2024).

Thus, even the most harsh, false, unfair, or mean-spirited accusations and commentary are generally protected by the First Amendment and therefore must be permitted during public comment.

The only exceptions are very narrow: true threats, incitement to imminent lawless action, and obscenity. In practical terms, if a speaker could not be arrested for saying it on the spot, their speech is usually permissible.

Procedural Tools

With that said, there are procedural tools the Authority may use to maintain order and protect staff without restricting viewpoint. Decorum may be enforced through process and conduct, not the content of what someone says. For example, the Authority may:

- Direct comments to be made to the Board as a whole or to its Chairperson (and not individuals in the audience, etc.).
- Reasonably limit speaking time (e.g., to two minutes instead of three minutes).
- Move "general public comment" of items concerning GRUA but not on the agenda, to the end of the meeting.
- Better redirect public comment on specific actions taken by GRUA to be reasonably related to that specific action.
- Address disruptive behavior (shouting, refusing to yield, or physically disruptive acts) immediately.
- Utilize speaker signup slips (common in local government) to identify and call upon/recognize public speakers (instead of having speakers line up on their own accord).

- Encourage written submissions for personnel or investigative concerns. State and restate board policy regarding personnel or investigative concerns.
- Update the Authority's Code of Business and other public documentation regarding public comment to implement some/all of these regulations and goals, while affirming GRUA's commitment to protecting First Amendment speech.

These measures continue to allow robust public participation while keeping meetings orderly and safe for everyone.

Personnel Matters and Investigative Issues

The Authority may adopt a policy that specific issues regarding personnel or the need for investigation be provided in writing; and stating this policy up front when introducing public comment and additionally redirecting public comment should they veer off into allegations of criminal conduct, ethical violations, or other matters requiring investigation.

A draft of such a policy could look like this:

> To protect the privacy and due process rights of employees, the Board encourages that specific complaints, allegations, or criticisms concerning identifiable GRU employees be submitted in writing to the Board, appropriate administrator, or legal counsel — rather than raised during public comment.
>
> Allegations involving potential criminal conduct, ethical violations, or other matters requiring investigation are encouraged to be submitted in writing to the Board, appropriate administrator, or legal counsel — or, more specifically, to law enforcement authorities — as the GRUA Board is not the proper forum for receiving or adjudicating such allegations during public comment.
>
> Nothing in this policy is intended to limit any person's right to address the GRUA Board as provided by Florida law or to communicate concerns to appropriate governmental, legal, or law enforcement authorities.

With such a policy, a general reminder could be verbally given at the beginning of public comment, such as:

> As a reminder, the Board encourages that specific personnel complaints or allegations requiring investigation be directed in writing to us, the appropriate administrator, our legal counsel, or the appropriate legal authorities. Nothing about that limits your right to speak today. We welcome public comment and respect your rights and Florida law.

Attached are recent court decisions for further reading. As always, please feel free to give me a call to discuss further.

116 F.4th 1319
United States Court of Appeals, Eleventh Circuit.

James Eric MCDONOUGH, Plaintiff-Appellant,
v.
Carlos GARCIA, Garland Wright, individually, City of Homestead, a political subdivision of the State of Florida, Defendants-Appellees.

No. 22-11421
|
Filed: 09/16/2024

Synopsis

Background: City resident filed § 1983 action alleging that city and police officers violated First Amendment by banning him from city council meetings, and that officers lacked probable cause to arrest him for disorderly conduct and cyberstalking. The United States District Court for the Southern District of Florida, No. 1:19-cv-21986-FAM, Federico A. Moreno, J., 2022 WL 971392, entered summary judgment in defendants' favor, and plaintiff appealed. The Court of Appeals, 90 F.4th 1080, affirmed in part, reversed in part, and remanded. Rehearing en banc was granted.

[Holding:] The Court of Appeals, Grant, Circuit Judge, held that city council meetings were limited public forums, for First Amendment purposes.

Remanded.

Abudu, Circuit Judge, concurred and filed opinion.

Procedural Posture(s): On Appeal; Motion for Summary Judgment.

West Headnotes (9)

[1] **Constitutional Law** Government Property and Events

First Amendment does not require government to grant access in all government spaces to all who wish to exercise their right to free speech, no matter setting, without regard to nature of property or to disruption that might be caused by speaker's activities. U.S. Const. Amend. 1.

2 Cases that cite this headnote

[2] **Constitutional Law** Justification for exclusion or limitation

In traditional public forums, regulations that depend on content of speech need to satisfy strict scrutiny under First Amendment, which means they must be necessary to serve compelling state interest and narrowly drawn to achieve that end. U.S. Const. Amend. 1.

1 Case that cites this headnote

[3] **Constitutional Law** Justification for exclusion or limitation

In traditional public forums, content-neutral time, place, and manner regulations—when, where, and how speech can happen, regardless of speaker's message—must be narrowly tailored to serve significant government interest, and leave open ample alternative channels of communication in order to comply with First Amendment. U.S. Const. Amend. 1.

2 Cases that cite this headnote

[4] **Constitutional Law** Justification for exclusion or limitation

For time, place, and manner restriction in traditional public forum to be narrowly tailored, as required by First Amendment, it need not be the least restrictive or least intrusive means of serving government's legitimate, content-neutral interests; instead, narrow tailoring is satisfied so long as regulation promotes substantial government interest that would be achieved less effectively absent regulation, and it does not burden substantially more speech than is necessary to further that interest. U.S. Const. Amend. 1.

[5] **Constitutional Law** Designated Public Forum in General

Designated public forums and others like them need not be held open indefinitely for public speech, but when government does choose to open designated public forum, it is bound to respect the same First Amendment standards that apply in traditional public forums. U.S. Const. Amend. 1.

7 Cases that cite this headnote

[6] **Constitutional Law** Justification for exclusion or limitation

Under First Amendment, state can impose reasonable regulations on speech in nonpublic forums in order to reserve forum for its intended purposes, but only if those restrictions are viewpoint neutral. U.S. Const. Amend. 1.

5 Cases that cite this headnote

[7] **Constitutional Law** Justification for exclusion or limitation

In limited public forum—one created for certain groups or for discussion of certain topics—government may enforce speech restrictions that are reasonable in light of purpose served by forum and did not discriminate on basis of viewpoint without offending First Amendment. U.S. Const. Amend. 1.

13 Cases that cite this headnote

[8] **Constitutional Law** Justification for exclusion or limitation

Under First Amendment, when government opens limited public forum for particular purpose, it may legally preserve property under its control for use to which it is dedicated, but it must respect lawful boundaries it has itself set. U.S. Const. Amend. 1.

7 Cases that cite this headnote

[9] **Constitutional Law** Government Meetings and Proceedings

Municipal, County, and Local Government Meetings in general

City council meetings were limited public forums for First Amendment purposes, and thus its decision to bar city resident from meetings had to be reasonable in light of purposes served by meetings and could not discriminate on basis of viewpoint; though public comment periods were open to public at large, council limited speech to matters "pertinent to the City." U.S. Const. Amend. 1.

6 Cases that cite this headnote

***1320** Appeal from the United States District Court for the Southern District of Florida D.C. Docket No. 1:19-cv-21986-FAM

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Before William Pryor, Chief Judge, Wilson, Jordan, Rosenbaum, Jill Pryor, Newsom, Branch, Grant, Luck, Lagoa, Brasher, and Abudu, Circuit Judges.

Opinion

Abudu, Circuit Judge, filed a concurring opinion.

Grant, Circuit Judge:

***1321** James McDonough's trip to the Homestead city council meeting started with a comment and ended with his expulsion. When he returned for the next month's meeting, he learned he had been banned from City Hall. McDonough ended up with a disorderly conduct arrest, as well as a few other charges. He sued, challenging, among other things, his ban from City Hall. When considering that challenge, the first

question this Court asked was what kind of public forum the city council meeting was. The second was what legal standard applies in that forum.

These questions seemed simple; they did not turn out to be. Instead, they highlighted an unresolved knot in our precedents that could only be untangled with en banc review. While the Supreme Court's public forum framework has evolved over the last forty years, our own precedents have failed to keep pace. We now take the opportunity to get our house in order, aligning our public forum doctrine with the Court's latest cases. Because the city council meeting here limits participants' speech to a specific subject matter—topics "pertinent to the City"—these meetings are limited public forums, where regulations must be reasonable and viewpoint neutral.

I.

We include here only the facts necessary to answer the legal questions before the en banc Court. The City of Homestead, Florida holds monthly city council meetings at its city hall. These meetings are open to the general public, and the council invites speeches of up to three minutes at a time on any matters "pertinent to the City" during the public comment portion of each session. McDonough, a self-styled citizen activist, is a regular. After one of his comments was perceived as a threat, he was removed from the July 2016 meeting.

A month later, planning to attend the August meeting, McDonough arrived at City Hall. This time, a police sergeant was waiting for him. He informed McDonough that because of his behavior at the last meeting, the City had issued what it called a "trespass order." That order banned him from City Hall—including for city council meetings. McDonough, understandably displeased, asked how he could get the ban lifted. The sergeant's response was that he could "write a letter." To whom, it was not clear, and what the letter should say was equally opaque.

For reasons not relevant to the First Amendment issue we consider here, the sergeant did not stop there, and McDonough's August trip to City Hall ended with an arrest for disorderly conduct. Needless to say, he was also prevented from attending the city council meeting. McDonough skipped the next several meetings too, fearing another arrest. He never did write a letter asking for his ban to be lifted, but starting in December of that year he returned to City Hall without incident and attended a meeting. He resumed his habit of regular attendance after that.

McDonough also made good on an earlier promise to file suit, and raised a variety of claims against the City of Homestead, the sergeant who escorted him out of the July meeting, and other involved officers. ***1322** Only one issue concerns us here: whether the trespass order and his ban from future city council meetings violated the First Amendment. On that point, the district court found no constitutional error.

A panel of this Court disagreed. *McDonough v. Garcia*, 90 F.4th 1080, 1094 (11th Cir.), *vacated and reh'g en banc granted*, 93 F.4th 1220, 1221 (11th Cir. 2024). After describing the parties' disagreement about the forum type involved, we noted that the "parties' uncertainty reflects the fact that our caselaw does not offer an easy answer." *Id.* at 1092. We came to what we called "the somewhat uncomfortable conclusion" that our earliest precedent dictated that the city council meeting McDonough attended was a designated public forum. *Id.* at 1087. And that early holding, we said, "was reaffirmed after Supreme Court precedents that pointed to—but did not demand—a different answer." *Id.* The panel then completed the analysis under the designated-public-forum standard, reversing the grant of summary judgment to the City but affirming the sergeant's qualified immunity win. *Id.* at 1094, 1096–97.

Soon enough, the full Court voted to hear this case en banc. We instructed the parties to brief two questions: *first*, "[w]hat kind of public forum are the City of Homestead's city-council meetings," and *second*, "what legal test applies to speech restrictions within that kind of forum?" We now consider those questions.

II.

[1] We have long understood the commonsense point that the Constitution does not require the government to "grant access to all who wish to exercise their right to free speech," no matter the setting, "without regard to the nature of the property or to the disruption that might be caused by the speaker's activities." *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 799–800, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985). Disallowing any limits whatsoever in all government spaces would often lead to chaos, and could even keep the government from fulfilling its lawful functions. But

that is not a license to evade the First Amendment, which demands a close look when the government restricts speech.

Enter forum analysis, which considers "when the Government's interest in limiting the use of its property to its intended purpose outweighs the interest of those wishing to use the property for other purposes." *Id.* at 800, 105 S.Ct. 3439. The government's ability to impose restrictions on speech varies depending on the nature of the forum. *See Keister v. Bell*, 29 F.4th 1239, 1251 (11th Cir. 2022); *Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37, 44, 103 S.Ct. 948, 74 L.Ed.2d 794 (1983). The Supreme Court has recognized four types: the traditional public forum, the designated public forum, the limited public forum, and the nonpublic forum. *See Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 215–16, 135 S.Ct. 2239, 192 L.Ed.2d 274 (2015). Content restrictions in the first two categories are reviewed under strict scrutiny, while regulations in the latter two survive so long as they are viewpoint neutral and reasonable.

Here, the parties now agree that the City of Homestead's city council meetings qualify as limited public forums. This fit of unanimity, however, obscures the thorny doctrinal history of public forum analysis both here and at the Supreme Court. For that reason, we find it useful to show our ***1323** work, explaining the public forum framework as it exists today, then considering the Supreme Court's evolution—and our own—on the concept of a limited public forum.

A.

The Supreme Court first outlined public forum doctrine in *Perry Education Association v. Perry Local Educators' Association*. Synthesizing several decades' worth of First Amendment jurisprudence, the Court set out three categories and explained that the government's ability to restrict expressive activity would be different in each one. 460 U.S. at 45–46, 103 S.Ct. 948.

[2] **[3]** **[4]** The first was the traditional public forum—places that "have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions." *Id.* at 45, 103 S.Ct. 948 (quotation omitted). The quintessential examples are streets and parks. *Id.* It is no surprise that in this kind of forum the government's ability to restrict speech is highly constrained. Regulations that depend on the content of speech need to satisfy strict scrutiny, which means they must be "necessary to serve a compelling state interest" and "narrowly drawn to achieve that end." *Id.* As for content-neutral "time, place, and manner" regulations—when, where, and how speech can happen, regardless of the speaker's message—the standard is somewhat looser. *Id.* Even so, such rules must be "narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication." *Id.* [1]

[5] Next in *Perry* was the designated public forum, or "public property which the State has opened for use by the public as a place for expressive activity." *Id.* Examples include "university meeting facilities," "school board meeting[s]," and "municipal theater[s]." *Id.* at 45–46, 103 S.Ct. 948. These forums and others like them need not be held open indefinitely for public speech, the Supreme Court said, but when the government does choose to open a designated public forum, it is bound to respect the same First Amendment standards that apply in traditional public forums. *Id.* at 46, 103 S.Ct. 948.

[6] The third and final category described in *Perry* was the nonpublic forum. This type of forum is, as the name suggests, not really a public forum at all, and includes government property that "is not by tradition or designation a forum for public communication." *Id.* The First Amendment, after all, "does not guarantee access to property simply because it is owned or controlled by the government." *Id.* (quotation omitted). The internal school mail facility at issue in *Perry* was one such nonpublic forum; other examples are mailboxes, military bases, and jails. *Id.*; *see also* ***1324** *U.S. Postal Serv. v. Council of Greenburgh Civic Ass'ns*, 453 U.S. 114, 128–29, 101 S.Ct. 2676, 69 L.Ed.2d 517 (1981); *Greer v. Spock*, 424 U.S. 828, 838, 96 S.Ct. 1211, 47 L.Ed.2d 505 (1976); *Adderley v. Florida*, 385 U.S. 39, 47–48, 87 S.Ct. 242, 17 L.Ed.2d 149 (1966). For these, the Court said, the state can impose "reasonable" regulations on speech in order to "reserve the forum for its intended purposes," but only if those restrictions are viewpoint neutral. *Perry*, 460 U.S. at 46, 103 S.Ct. 948.

The Supreme Court followed this tripartite framework without interruption for about a decade, until *Rosenberger v. Rector & Visitors of University of Virginia*, 515 U.S. 819, 115 S.Ct. 2510, 132 L.Ed.2d 700 (1995). There, the Court made an important shift—though without saying so—setting out a fourth category, the limited public forum. *Perry* had not recognized a separate category of "limited public forums." It

just explained in a footnote that a subset of designated public forums were those "created for a limited purpose such as use by certain groups, or for the discussion of certain subjects." *Perry*, 460 U.S. at 46 n.7, 103 S.Ct. 948 (citations omitted). And it recycled two of its earlier examples of designated public forums as falling within that category: university meeting facilities and school board meetings. *See id.* at 45–46, 46 n.7, 103 S.Ct. 948.

[7] But in *Rosenberger*, the Court moved limited public forums out of the designated public forum bucket. *Rosenberger* explained that in a "limited public forum"—one created "for certain groups or for the discussion of certain topics"—the government could enforce speech restrictions that were "reasonable in light of the purpose served by the forum" and did not discriminate on the basis of viewpoint. 515 U.S. at 829, 115 S.Ct. 2510 (quotation omitted). This was the same test the Court had offered before for nonpublic forums. *See Perry*, 460 U.S. at 46, 103 S.Ct. 948.

Rosenberger cited two post-*Perry* cases to support this point. *See* 515 U.S. at 829, 115 S.Ct. 2510 (citing *Cornelius*, 473 U.S. 788, 105 S.Ct. 3439; and *Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 113 S.Ct. 2141, 124 L.Ed.2d 352 (1993)). But both had outlined the same three-part forum analysis as *Perry*—including a recognition that the stricter standard associated with traditional public forums applied when the government designated a forum for open public expression.[2] *See Cornelius*, 473 U.S. at 800, 105 S.Ct. 3439; *Lamb's Chapel*, 508 U.S. at 390–93, 113 S.Ct. 2141. *Cornelius*, like *Perry*, identified school board meetings and municipal auditoriums as examples of designated public forums.[3] *Cornelius*, 473 U.S. at 803, 105 S.Ct. 3439. It reiterated that the reasonable-and-viewpoint-neutral test applied for "nonpublic forum[s]." *See id.* at 806, 105 S.Ct. 3439. *Lamb's Chapel*, for its part, simply quoted *Cornelius* for the same rule. 508 U.S. at 392–93, 113 S.Ct. 2141. Neither established a new category of "limited public forums."

Rosenberger thus represented a break from *Perry* and its progeny. Where *Perry* ***1325** described limited public forums as a subset of designated public forums, *Rosenberger* said the test applied in limited public forums was the same as the test used in nonpublic forums. So what probably read as a minor conceptual shift—after all, these categories are often based on a matter of degree—turned out to have major implications for the analysis courts use and the standards we set.

This doctrinal change came with its own growing pains. Just three years later, the Court appeared to walk back *Rosenberger*'s creation of the limited public forum. In *Arkansas Educational Television Commission v. Forbes*, the Court briefly returned to *Perry*'s three categories: traditional public forums, designated public forums, and nonpublic forums. 523 U.S. 666, 677–78, 118 S.Ct. 1633, 140 L.Ed.2d 875 (1998). The *Forbes* Court described a forum open only to "a particular class of speakers" as a type of designated public forum—consistent with *Perry* but contrary to *Rosenberger*, which called a forum reserved "for certain groups" a limited public forum. *Id.* at 678, 118 S.Ct. 1633; *see Perry*, 460 U.S. at 45–46, 46 n.7, 103 S.Ct. 948; *Rosenberger*, 515 U.S. at 829, 115 S.Ct. 2510.

But in 2001, *Good News Club v. Milford Central School* cemented *Rosenberger*'s change. 533 U.S. 98, 121 S.Ct. 2093. The Supreme Court reaffirmed *Rosenberger*'s shift, applying the reasonable-and-viewpoint-neutral standard to restrictions in a limited public forum. *See id.* at 106–07, 121 S.Ct. 2093. The Court maintained its earlier standard for restrictions on speech in traditional or "open" (an apparent synonym for designated) public forums, describing those categories as "subject to stricter scrutiny than are restrictions in a limited public forum." *Id.* at 106, 121 S.Ct. 2093. So *Perry*'s early characterization of limited public forums as a specific subset of designated public forums was dead and gone—at least at the Supreme Court.

The characterization of the limited public forum as a category distinct from the designated public forum remains in force at the Supreme Court. So does the application of the reasonable-and-viewpoint-neutral standard to restrictions on speech within that kind of forum. *See, e.g.*, *Pleasant Grove City v. Summum*, 555 U.S. 460, 470, 129 S.Ct. 1125, 172 L.Ed.2d 853 (2009); *Christian Legal Soc'y Chapter of the Univ. of Cal., Hastings Coll. of the L. v. Martinez*, 561 U.S. 661, 679, 130 S.Ct. 2971, 177 L.Ed.2d 838 (2010). And in *Walker v. Texas Division, Sons of Confederate Veterans, Inc.*, the Court described the limited public forum as a category independent from both designated public forums and nonpublic forums. *See* 576 U.S. at 215–16, 135 S.Ct. 2239. That leaves, for today, four kinds of forums recognized by the Supreme Court: the traditional public forum, the designated public forum, the limited public forum, and the nonpublic forum.[4]

B.

This Circuit's public forum doctrine has also evolved—just not always in tandem ***1326** with the Supreme Court's. In 1989 we deemed a city commission meeting, which was open for public comment on agenda items, a designated public forum. *Jones v. Heyman*, 888 F.2d 1328, 1331 (11th Cir. 1989). Consistent with *Perry*, we held that content-based restrictions were subject to strict scrutiny in this designated public forum, while content-neutral, time, place, and manner restrictions needed to be "narrowly drawn to achieve a significant governmental interest" and "allow communication through other channels." *Id.* So far so good.

Four years later, we correctly read *Perry* to say that one "kind of designated public forum is the limited public forum." *Crowder v. Hous. Auth. of Atlanta*, 990 F.2d 586, 591 (11th Cir. 1993). We went on to hold that an auditorium in a public housing unit "was a limited public forum" because it was open for a "wide range of expressive activities." *Id.* All remained well because at that time both this Court and the Supreme Court considered limited public forums a type of designated public forum, subject to the same test.

Trouble held off for a little over a decade.[5] In 2004, nine years after *Rosenberger* made clear that restrictions in limited public forums should be evaluated for reasonableness and viewpoint neutrality (and three years after *Good News Club* did the same), this Court held that city council meetings were limited public forums. *Rowe v. City of Cocoa*, 358 F.3d 800, 802 (11th Cir. 2004) (quoting *Crowder*, 990 F.2d at 591). No problem there. But *Rowe* applied the designated forum test rather than the nonpublic forum test to this allegedly limited forum, saying that content-neutral restrictions on the time, place, and manner of speech "must be narrowly tailored to serve a significant government interest." *Id.* at 802–03 (quotation omitted).[6] This was consistent with *Perry*, as well as *Jones* and *Crowder*, but not with the more recent *Rosenberger* and *Good News Club*, which would have reviewed restrictions in a limited public forum only for viewpoint neutrality and reasonableness in light of the forum's purpose. In other words, our treatment of limited public forums diverged from that of the Supreme Court.

By 2011, we had partially corrected course. In *Bloedorn v. Grube*, a case about a non-student seeking to preach on a public university's campus, we articulated the difference between public, designated, and limited forums and described the tests applicable to each consistent with the Supreme Court's latest explanation as laid out in *Good News Club*, *Pleasant Grove City*, and *Christian Legal Society*. *See* 631 F.3d 1218, 1225–26, 1230–32 (11th Cir. 2011). The university's sidewalks, pedestrian mall, and rotunda were limited public forums because they were limited to use only by university community members, while the Free Speech Area open to outside ***1327** speakers was a designated public forum. *Id.* at 1232–34. We concluded that the university's ban on outside speakers in the limited public forums reserved for university members was a reasonable, viewpoint-neutral restriction. *See id.* at 1235. And the requirement that outside speakers seek a permit to access the Free Speech Area was upheld as a content-neutral, time, place, and manner restriction narrowly tailored to the university's significant interests in regulating competing uses of the space and maintaining campus safety, leaving open ample alternative channels for speech. *See id.* at 1236–42. While that was all consistent with *Good News Club*, *Bloedorn* did not cite or explain away *Rowe*, which came after *Good News Club* but still applied our earlier approach for limited public forums, grouping them with designated public forums rather than nonpublic.

So, in the post-*Good News Club* era, this Court has had two inconsistent but concurrent approaches to analyzing limited public forums: *Rowe*, which requires content-neutral restrictions in a limited public forum to be narrowly tailored to a significant governmental interest (and implicitly requires strict scrutiny for content-based restrictions), and *Bloedorn*, which reviews all restrictions only for viewpoint-neutrality and reasonableness. Compounding the confusion, *Jones*—our Circuit's earliest case applying forum analysis to a city commission meeting—treated that meeting as a designated, rather than a limited, public forum, and accordingly reviewed a content-neutral decision for narrow tailoring to a significant governmental interest. *Jones*, 888 F.2d at 1331. Between *Jones*, *Rowe*, and *Bloedorn*, then, we had three combinations of labels and tests that could apply here: *Jones*, a designated public forum with heightened scrutiny; *Rowe*, a limited public forum with heightened scrutiny; and *Bloedorn*, a limited public forum with reasonableness review.[7]

The timing complicated things even further. For one thing, *Rowe*, a decision this Court issued after *Rosenberger* and *Good News Club*, applied the stricter legal test of *Jones* (rather than reasonableness review) to speech restrictions at a city council meeting. *Rowe*, 358 F.3d at 802–03. And no intervening Supreme Court precedents since *Rowe* explain the subsequent shift in the tests this Circuit has applied either to limited and designated public forums generally, or to speech restrictions in city council meetings specifically. For another,

Jones and *Good News Club* agree on the test to be applied in a designated public forum—strict scrutiny for content-based restrictions, narrow tailoring in service of a significant governmental interest for content-neutral restrictions—even if they might disagree on what types of government-owned spaces fall under that label. Last but not least, neither *Good News Club* nor *Rosenberger* dealt with a city council meeting—unlike both *Jones* and *Rowe*. That means all of our not-quite-reconcilable precedents were not-quite-overruled.

[8] No longer. The Supreme Court's limited public forum cases—beginning with *Rosenberger* and continuing with *Good News Club* and *Christian Legal Society*—have supplanted the outdated rule from *Jones* and *Rowe*. As *Rosenberger* explained, when a government opens a limited ***1328** public forum for a particular purpose, it "may legally preserve the property under its control for the use to which it is dedicated." 515 U.S. at 829, 115 S.Ct. 2510 (quotation omitted). Still, it "must respect the lawful boundaries it has itself set." *Id.* Restrictions on speech must be viewpoint neutral and "reasonable in light of the purpose served by the forum." *Id.* (quotation omitted). In *Good News Club*, the Court reaffirmed that definition and the standard that goes along with it: the government can create a limited public forum reserved "for certain groups or for the discussion of certain topics," so long as its restrictions are reasonable and viewpoint neutral. 533 U.S. at 106–07, 121 S.Ct. 2093 (quoting *Rosenberger*, 515 U.S. at 829, 115 S.Ct. 2510). And again, in *Christian Legal Society*: "governmental entities establish limited public forums by opening property limited to use by certain groups or dedicated solely to the discussion of certain subjects." 561 U.S. at 679 n.11, 130 S.Ct. 2971 (quotation omitted). In a limited public forum, the government "may impose restrictions on speech that are reasonable and viewpoint-neutral." *Id.* (quotation omitted). [8]

III.

With the categories clarified, labeling this forum is easy. We can quickly dispense with the two opposite poles, traditional and nonpublic forums. The City of Homestead's city council meetings are not traditional public forums—there is no longstanding tradition that these meetings or others like them are held open for undifferentiated public discourse like streets or parks. Nor are they nonpublic forums like mailboxes, military bases, or jails—government-owned property "not by tradition or designation a forum for public communication." *Mansky*, 585 U.S. at 11–12, 138 S.Ct. 1876 (quoting *Perry*, 460 U.S. at 46, 103 S.Ct. 948); *see U.S. Postal Serv.*, 453 U.S. at 128–29, 101 S.Ct. 2676; *Greer*, 424 U.S. at 838, 96 S.Ct. 1211; *Adderley*, 385 U.S. at 47–48, 87 S.Ct. 242. By deliberately opening up City Hall and inviting the public to speak, the City has moved beyond simply "managing its internal operations." *Walker*, 576 U.S. at 216, 135 S.Ct. 2239 (quotation omitted).

As between the categories in the middle of the spectrum, designated and limited public forums, the Supreme Court instructs us to look to two features—whether the forum is limited to a specific class of speakers, and whether the forum is limited to speech on specific topics. If either (or both) is present, we have a limited public forum. *Id.* at 215, 135 S.Ct. 2239; *see also Rosenberger*, 515 U.S. at 829, 115 S.Ct. 2510. Here, though the public comment periods are open to the public at large (not to a specific class of people like "Homestead residents"), the council limits speech to matters "pertinent to the City." This rule sets out a content-based restriction defining the scope of the forum. For that reason, the Homestead city council meetings are limited public forums. That will often be the forum type for city council meetings, school board meetings, and the ***1329** like, but it is not a blanket rule—the facts must be considered in each case.

In a limited public forum, as we have said, the government's restrictions on speech "must not discriminate against speech on the basis of viewpoint" and "must be reasonable in light of the purpose served by the forum." *Good News Club*, 533 U.S. at 106–07, 121 S.Ct. 2093 (quotation omitted). We will leave it to the panel to apply those standards here, noting only that although reasonableness is a "forgiving test," it is not a meaningless one. *Mansky*, 585 U.S. at 16–17, 138 S.Ct. 1876.

* * *

[9] The City of Homestead has opened its city council meetings to public comment limited to a specific subject matter. That makes these meetings limited public forums, and any restriction on speech—like the decision to bar James McDonough—must be reasonable in light of the purposes served by the meetings and may not discriminate on the basis of viewpoint. We **REMAND** to the panel for application of this standard to the facts of this case.

Abudu, Circuit Judge, concurring:

> The constitutional right of free expression is powerful medicine in a society as diverse and populous as ours. It is designed and intended to remove governmental restraints from the arena of public discussion .... To many, the immediate consequence of this freedom may often appear to be only verbal tumult, discord, and even offensive utterance. [Yet], [w]e cannot lose sight of the fact that, in what otherwise might seem a trifling and annoying instance of individual distasteful abuse of a privilege, these fundamental societal values are truly implicated.

Cohen v. California, 403 U.S. 15, 24–25, 91 S.Ct. 1780, 29 L.Ed.2d 284 (1971) (internal citations omitted).

These are the powerful words of Justice John Marshall Harlan who over 50 years ago predicted that courts would become a tool for sanctioning and, thus, advancing authoritarianism through increased restrictions on free speech.[1] While I concur in the Court's Majority Opinion, I write separately to revive Justice Harlan's concerns regarding the danger of granting public officials far too much discretion in excluding government-owned property as a "marketplace of ideas" for public discourse. *See Red Lion Broadcasting Co. v. F.C.C.*, 395 U.S. 367, 390, 89 S.Ct. 1794, 23 L.Ed.2d 371 (1969) ("It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail ...."). Today's ruling is based on the Supreme Court's decisions in *Rosenberger*, *Good News Club*, and *Walker*,[2] which identified four categories of fora when determining the level of scrutiny to apply to Defendant-Appellee the City of Homestead, Florida's (the ***1330** "City")[3] restrictions on Plaintiff-Appellant James Eric McDonough's First Amendment rights during city council meetings. As precedent currently stands, it was not illogical for McDonough to concede that the council meetings occur in a limited public forum. However, questions regarding the lack of historical support and, consequently, the arbitrary creation of a "limited public forum" remain legitimate. Moreover, the State of Florida's position in this case, which is all about further expanding "government control" over speech—its words, not mine—heightens the importance of resolving this quandary sooner rather than later.[4]

I. McDonough's Basis for Appeal and *En Banc* Review

The City of Homestead holds monthly city council meetings at its City Hall. *See McDonough v. Garcia*, 90 F.4th 1080, 1085 (11th Cir.), *vacated and reh'g en banc granted*, 93 F.4th 1220, 1221 (11th Cir. 2024). A previous panel of this Court described the relevant facts as follows:

> During the comment portion of these meetings, members of the public are invited to speak for three minutes at a time on any matters 'pertinent to the City.' James McDonough was a regular, attending and speaking at more than half of the meetings held between 2015 and 2017. But it did not always go smoothly; the City had stopped him from completing his remarks several times.
>
> Things came to a head during the July 2016 meeting. McDonough rose to address the council, and spoke for about two-and-a-half minutes without incident. He touched on various subjects, including alleged police misconduct, body cameras, and claims of nepotism within the police department. But toward the end of his allotted time, things took a turn for the worse. McDonough loudly confronted a city councilman, launching a personal challenge: 'The last point I'd like to hit off with is, Mr. Maldonado, you know I'd appreciate it if you got something to say to me, you can come say it in my face, and you don't have to talk about me behind my back in public to other people.' Sergeant Garland Wright, who later testified that he took these comments as a threat, quickly approached the podium and ordered McDonough to leave.

Id. As stated earlier, McDonough's actions and his encounter with law enforcement resulted in his ejection, arrest, and banishment. *Id.* at 1085-86.

This *en banc* appeal comes before the Court after McDonough filed a 42 U.S.C. § 1983 action against the City and several city police officers for removing him from a council meeting, arresting him on the premises, and issuing a permanent ban against him from attending any future meetings, in violation of his civil rights under the First and Fourteenth Amendments. Specifically, McDonough challenged Wright's issuance of a trespass order that barred McDonough from attending all future Homestead City Council meetings without receiving

prior approval from the City. The district court granted summary judgment for the City, finding that McDonough had not shown a deprivation of his rights.

***1331** On appeal, a panel of this Court analyzed McDonough's First Amendment claims under the "designated public forum" rubric, and affirmed in part, and reversed in part, the district court's summary judgment order in favor of the City. *Id.* at 1098. In so holding, the panel recognized that more recent Supreme Court opinions suggested that the correct outcome might be different, but because this Court's prior precedent—defining the council meeting as a designated public forum—remained good law, the panel was bound to apply it.

II. Evolving Legal Standards for First Amendment Protections

For over forty years, the Supreme Court has held that the application of the First Amendment and its inherent limitations on governmental authority varies by location. *See Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 44-46, 103 S.Ct. 948, 74 L.Ed.2d 794 (1983). As the Court has explained, "[t]he existence of a right of access to public property and the standard by which limitations upon such a right must be evaluated differ depending on the character of the property at issue." *Id.* at 44, 103 S.Ct. 948. For that reason, "the Court has adopted a forum analysis as a means of determining when the Government's interest in limiting the use of its property to its intended purpose outweighs the interest of those wishing to use the property for other purposes." *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 800, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985).

Because the government's authority to restrict speech varies by the nature of the property, courts faced with a First Amendment challenge on publicly-owned property must first determine what category of forum is involved. *See id.*; *see also Good News Club*, 533 U.S. at 106, 121 S.Ct. 2093 ("The standards that we apply to determine whether a State has unconstitutionally excluded a private speaker from use of a public forum depend on the nature of the forum."). Because the legal standard for speech restrictions varies by forum, the type of forum at issue is paramount to avoid unconstitutional restrictions on one's free speech rights. This is especially true given the Supreme Court's repeated recognition that, to be a legitimate and credible representative of the People, the official business and behavior of politicians, when acting in their official capacity, must be transparent and open for public inspection and comment.

Whether intentionally and firmly established, or unthoughtfully constructed, the Supreme Court's creation of the "limited public forum" allows the City to reduce access to its council meetings during public comment to "certain groups," and to narrow the discussion of "certain subjects" based on what the City dictates. *Christian Legal Soc. Chapter of the Univ. of California v. Martinez*, 561 U.S. 661, 679 n.11, 130 S.Ct. 2971, 177 L.Ed.2d 838 (2010) (quoting *Pleasant Grove City v. Summum*, 555 U.S. 460, 469–70, 129 S.Ct. 1125, 172 L.Ed.2d 853 (2009))[5]; *see also Perry Educ. Ass'n*, 460 U.S. at 45, 103 S.Ct. 948. Importantly though, and still good law, a limited public forum does not permit the City to "exclude speech where its distinction is not reasonable in light of the purpose served by the forum, nor may it discriminate ***1332** against speech on the basis of its viewpoint."[6] *Christian Legal Soc. Chapter of the Univ. of California*, 561 U.S. at 685, 130 S.Ct. 2971. Put differently, in a limited public forum, "a government entity may impose restrictions on speech that are reasonable and viewpoint neutral." *Pleasant Grove City*, 555 U.S. at 470, 129 S.Ct. 1125 (citing *Good News Club*, 533 U.S. at 106–07, 121 S.Ct. 2093). As one panel member asked during the *en banc* oral argument, "is a limited public forum just a designated public forum, but with a content restriction attached to it?" Oral Argument at 29:15-22, *McDonough v. City of Homestead, et. al.*, (No. 22-11421).

Notably, one of the key cases defining a "designated public forum" remains good law. In *Arkansas Educational Television Commission v. Forbes*, the Supreme Court concluded that:

> [d]esignated public fora are created by purposeful governmental action opening a nontraditional public forum for expressive use by the general public or *by a particular class of speakers*. If the government excludes a speaker who falls within the class to which such a forum is made generally available, its action is subject to strict scrutiny.

523 U.S. 666, 667, 118 S.Ct. 1633, 140 L.Ed.2d 875 (1998) (emphasis added) (internal citations omitted).

Some might distinguish Forbes' definition of a designated public forum from a limited public forum by focusing on the "particular class of speakers" language, which is very similar, if not arguably identical, to the "certain groups" criterion defining a limited public forum. The very close definitions between the two inform the "unthoughtfully constructed" comment above.

III. The Collateral Consequences of Unfettered Governmental Discretion

The Supreme Court has manufactured, and our Circuit has been forced to embrace, four categories of fora, but only two applicable legal standards. Thus, the legality of the government's diminution of free speech protections depends on which side of that dividing line the City's forum falls, and the City has most of the power in determining which side of the line it chooses to be.

The State was granted leave to submit an amicus brief and participated in oral argument, and its argument deserves at least a little discussion. The State invites this Court to "clarify that, when the State or a private party hosts a forum, the degree of control that it actively exerts over the forum is *key* in determining the scope of the First Amendment's protections." En Banc Brief of the State of Florida as Amicus Curiae in Support of Defendants-Appellees, *McDonough v. City of Homestead, et. al.*, (No. 22-11421) at 2 (hereinafter "State's Brief") (emphasis added). The broader definition and application of the "control" factor the State seeks to cement could eventually run counter to "[t]he general proposition that freedom of expression upon public questions is secured by the First Amendment" and that this "constitutional safeguard ... 'was fashioned to assure unfettered interchange of ideas for ***1333** the bringing about of political and social changes desired by the people.' *New York Times Co. v. Sullivan*, 376 U.S. 254, 269, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964). Undoubtedly, "[w]hen the government speaks, it may refuse to endorse or freely remove speech of which it disapproves." *Leake v. Drinkard*, 14 F.4th 1242, 1248 (11th Cir. 2021). In *Leake*, this Court recognized that there is no "precise test" for what constitutes government speech, but that whether the government " 'maintains direct control over the messages conveyed' " is a consideration – not "key" as the government proposes. *Id.* (quoting *Cambridge Christian Sch. Inc. v. Fla. High Sch. Athletic Ass'n*, 942 F.3d 1215, 1234 (11th Cir. 2019)). Therefore, while the "certain groups" and "certain subjects" criteria might determine what to call the forum, what comes first is the government's almost unfettered ability to dictate the "certain subjects" it chooses to allow. *See* State's Brief at 19-20 (arguing, without identifying any authority, that "control usually determines the nature of a forum," while subsequently acknowledging that "[d]istrict courts have expressed uncertainty in recent years over how to analyze different forums ... and often consider a variety of factors without anchoring their analysis of the factors in control.").

Although the State agrees with the parties that the City's council meetings are held in a limited public forum, its end goal is more expansive. *See* State's Brief at 23 ("The degree of control the State actually exercises is what matters, not the specific means by which control is exercised."). The State essentially argues that we should adjust our forum analysis and find that public fora exist on a continuum—on one end traditional public fora, and "[o]n the other end is a forum in which the private speech that is permitted to occur has been so co-opted by the State that it becomes the government's own speech." *Id.* at 3. The State's contention is that the level of control the government exercises over a forum should determine its discretion to regulate the forum and, therefore, the allowable speech, claiming "[c]ontrol is a guardrail for forum analysis." *Id.* at 20. Although "control" is one of three factors courts use to distinguish government speech from private speech, [7] the amicus brief proposes a significant paradigm shift by extending this control analyses to the determination of whether a forum falls somewhere on the continuum outside of government speech. Thus, governing bodies may be incentivized to enact stricter control measures over fora that lean toward the "public fora" end of their proposed continuum in order to broaden their power to regulate the speech allowed therein.

The State's reliance on the proposition that "the host's degree of control over the forum evidences its function," *id.* at 4, exposes the dangers of a heavy control-focused analysis. This proposed shift carries troubling implications. If entertained, let alone accepted, the State's theory would pave the way for Florida's governing bodies to regulate and control fora far beyond government speech that could ultimately undermine the First Amendment's historical meaning and eviscerate its ongoing application. *See Cornelius*, 473 U.S. at 815, 105 S.Ct. 3439 (Blackmun, J., dissenting) ("[T]he use of government property for expressive activity helps further the interests that freedom of speech serves for society as a whole; it allows the 'uninhibited, robust, and wide-open' debate about ***1334** matters of public importance that secures an informed citizenry ... and it helps to ensure that government

is 'responsive to the will of the people.' " (internal citations and quotation marks omitted)).

Thankfully, today's decision, by not embracing this attempted government overreach, rejects Florida's end goal and frustrates any strategy aimed towards less transparency, less accountability, and overall dominance over the thoughts and expressions of the People. As Justice Alito reasoned in his dissent in *Walker*, Florida's preference would "pass[ ] off private speech as government speech and, in doing so, establish[ ] a precedent that threatens private speech that government finds displeasing." 576 U.S. at 221, 135 S.Ct. 2239 (Alito, J., dissenting); *see also Cohen*, 403 U.S. at 26, 91 S.Ct. 1780 ("One of the prerogatives of American citizenship is the right to criticize public [officials] and measures—and that means not only informed and responsible criticism but the freedom to speak foolishly and without moderation." (internal citations omitted)).

For sure, the Supreme Court's failure to engage in a robust discussion regarding the need for a growing category of fora, perhaps, is the door that Florida seeks to walk through in proposing this paradigm shift. Even a rudimentary reading of *Good News Club* and *Rosenberger* reveals that the Court was more concerned with the speech restrictions placed on religious entities as opposed to the application of this judicially-created limited public forum.[8] Moreover, as the Majority Opinion explains, the cases upon which this Court relies also did not involve city council meetings. Maj. Op. at 1327. Thus, the courts are left with the development of categories that have not been well-defined or clearly articulated, but that determine the freedom of speech the public enjoys. Although we decline Florida's invitation, the lesser level of scrutiny the limited public forum analysis allows nevertheless widens the door for the restrictions on freedoms which motivated the masses, through their elected officials, to amend our Constitution and cement up front that federal and state governments shall not "abridge[e] the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." U.S. Const. amend. I.

The Majority Opinion's primary goal was to "get our house in order, aligning our public forum doctrine with the [Supreme] Court's latest cases." Maj. Op. at 1321. Our Court's respect for *stare decisis* and the rule of law require the incorporation of the Supreme Court's current stance on the intersection between government-owned space and the First Amendment. However, the State's brief reminds us not to fall down the slippery slope of government dominance over the will of the People. That is not the society that our Founding Fathers, even as flawed and myopic their own attitudes were, envisioned.

All Citations

116 F.4th 1319, 30 Fla. L. Weekly Fed. C 1431

Footnotes

1 Those two standards, though similarly worded, are different. For a time, place, and manner restriction to be "narrowly tailored," it "need not be the least restrictive or least intrusive means of" serving "the government's legitimate, content-neutral interests." *Ward v. Rock Against Racism*, 491 U.S. 781, 798, 109 S.Ct. 2746, 105 L.Ed.2d 661 (1989). Instead, "narrow tailoring is satisfied so long as the regulation promotes a substantial government interest that would be achieved less effectively absent the regulation" and it does not "burden substantially more speech than is necessary to further" that interest. *Id.* at 799, 109 S.Ct. 2746 (alteration adopted and quotation omitted).

2 Same with *International Society for Krishna Consciousness, Inc. v. Lee*, which repeated *Perry*'s three-part framework but was not cited in *Rosenberger*. *See* 505 U.S. 672, 678–79, 112 S.Ct. 2701, 120 L.Ed.2d 541 (1992).

3 The *Cornelius* dissent, for what it is worth, explicitly used the term "limited public forum" as a synonym for designated public forum, and there is no sign that the majority disagreed with that characterization. *See*

Cornelius, 473 U.S. at 813, 105 S.Ct. 3439 (Blackmun, J., dissenting) (citing *Perry*, 460 U.S. at 48, 103 S.Ct. 948).

4 The Supreme Court has also said at times that there are only three, using the categories of "limited public forum" and "nonpublic forum" interchangeably. *See Christian Legal Soc'y*, 561 U.S. at 679 n.11, 130 S.Ct. 2971 (recognizing traditional public forums, designated public forums, and limited public forums); *Minnesota Voters All. v. Mansky*, 585 U.S. 1, 11, 138 S.Ct. 1876, 201 L.Ed.2d 201 (2018) (recognizing traditional public forums, designated public forums, and nonpublic forums); *see also Am. Freedom Def. Initiative v. King Cnty.*, 577 U.S. 1202, 1202, 136 S.Ct. 1022, 194 L.Ed.2d 376 (2016) (Thomas, J., dissenting from denial of certiorari) (noting that a "limited public forum" is "also called a nonpublic forum"). Perhaps it is irrelevant if the same test is applied to speech restrictions in either setting. But because the Supreme Court has differentiated, so do we.

5 In 2003, sitting en banc, we explained that there were three forum categories: traditional public forum, designated public forum, and nonpublic forum. *Atlanta J. & Const. v. City of Atlanta Dep't of Aviation*, 322 F.3d 1298, 1306 n.9 (11th Cir. 2003) (en banc). We wrote that strict scrutiny applied to content-based restrictions in traditional and designated public forums, while the reasonable-and-viewpoint-neutral test applied to restrictions in nonpublic forums. *Id.* at 1306–07. We made no mention of the limited public forum.

6 *Rowe* did, we note, characterize the regulations that it approved as "reasonable and viewpoint neutral" in its concluding paragraph, despite having applied a different test in the analysis. *Rowe*, 358 F.3d at 804.

7 These were not the last word on the subject. Later cases largely hew to the *Bloedorn* formulation of the limited public forum. *See, e.g.*, *Keister*, 29 F.4th at 1252–57 (finding a sidewalk on a public university's campus limited to student use to be a limited public forum subject to reasonable-and-viewpoint-neutral review).

8 At the risk of gilding the lily, here is *Pleasant Grove City*: "The Court has also held that a government entity may create a forum that is limited to use by certain groups or dedicated solely to the discussion of certain subjects. In such a forum, a government entity may impose restrictions on speech that are reasonable and viewpoint neutral." 555 U.S. at 470, 129 S.Ct. 1125 (citation omitted). And *Walker*: "a limited public forum ... exists where a government has reserved a forum for certain groups or for the discussion of certain topics." 576 U.S. at 215, 135 S.Ct. 2239 (alteration adopted and quotation omitted).

1 *See also United States v. Kokinda*, 497 U.S. 720, 758, 110 S.Ct. 3115, 111 L.Ed.2d 571 (1990) (Brennan, J., dissenting) ("Ironically, these public forum categories – originally conceived as a way of preserving First Amendment rights ... have been used in some of our recent decisions as a means of upholding restrictions on speech." (internal citations omitted)).

2 *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 115 S.Ct. 2510, 132 L.Ed.2d 700 (1995); *Good News Club v. Milford Central Sch.*, 533 U.S. 98, 121 S.Ct. 2093, 150 L.Ed.2d 151 (2001); *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 135 S.Ct. 2239, 192 L.Ed.2d 274 (2015).

3 References to the City also include the individual Defendant-Appellees, unless otherwise noted.

4 While not a named party, the State of Florida participated as amicus curiae.

5 In *Christian Legal Society*, the Court described "three categories" of government property, but this does not appear to be a reversion to the *Perry* framework. 561 U.S. at 679 n.11, 130 S.Ct. 2971 (listing only traditional public fora, designated public fora, and limited public fora).

6 It appears that discussion of limited public fora typically uses the term "viewpoint neutral" rather than "content neutral." Presumably, this is because limited public fora inherently allow the exclusion of content entirely unrelated to the purpose for which the forum was created.

7 *See Leake*, 14 F.4th at 1248.

8 *See Rosenberger*, 515 U.S. at 831, 837, 115 S.Ct. 2510 (finding a university's guidelines governing fund distribution to student organizations violated the First Amendment, reasoning in part that "[b]y the very terms of the [university guidelines], the University does not exclude religion as a subject matter but selects for disfavored treatment those student journalistic efforts with religious editorial viewpoints."); *see also Good News Club*, 533 at 108-12, 121 S.Ct. 2093 (finding a school's exclusion of a religious club from the use of school facilities based on the club's religious nature "constitutes impermissible viewpoint discrimination.").

118 F.4th 1324
United States Court of Appeals, Eleventh Circuit.

MOMS FOR LIBERTY - BREVARD COUNTY, FL, Amy Kneessy, Ashley Hall, Katie Delaney, Joseph Cholewa, Plaintiffs-Appellants,

v.

BREVARD PUBLIC SCHOOLS, Misty Haggard-Belford, Chair, Brevard County School Board in her individual capacity, Matt Susin, Vice Chair, Brevard County School Board in his official and individual capacities, Cheryl McDougall, Member, Brevard County School Board in her official and individual capacities, Katye Campbell, Member, Brevard County School Board in her official and individual capacities, et al., Defendants-Appellees.

No. 23-10656
|
Filed: 10/08/2024

Synopsis

Background: Parents group and its members filed § 1983 action alleging that school board's rules prohibiting abusive, personally directed, and obscene speech during public comment period of board meetings violated First Amendment facially and as applied. The United States District Court for the Middle District of Florida, No. 6:21-cv-01849-RBD-DAB, Roy Dalton, Jr., J., entered summary judgment in board's favor, and plaintiffs appealed.

Holdings: The Court of Appeals, Grant, Circuit Judge, held that:

[1] organization had standing to bring action;

[2] plaintiffs had standing to seek prospective relief;

[3] policy permitting board's presiding officer to interrupt speech that he or she deemed "abusive" violated First Amendment;

[4] policy disallowing speakers from addressing or questioning board members individually was unreasonable restriction on speech as applied;

[5] policy allowing presiding officer to stop speaker when speaker's remarks were "personally directed" at anyone not on board was facially unconstitutional; and

[6] policy prohibiting obscene speech during public comment period violated First Amendment as applied.

Reversed and remanded.

Wilson, Circuit Judge, concurred in part, dissented in part, and filed opinion.

Procedural Posture(s): On Appeal; Motion for Summary Judgment.

West Headnotes (28)

[1] Federal Courts Summary judgment

Court of Appeals reviews grant of summary judgment de novo. Fed. R. Civ. P. 56(a).

[2] Federal Civil Procedure In general; injury or interest

Because standing is not dispensed in gross, plaintiffs must demonstrate standing for each form of relief requested.

[3] Associations Suits on Behalf of Members; Associational or Representational Standing

Organization has standing to vindicate rights of its members when: (1) its members would otherwise have standing to sue in their own right; (2) interests it seeks to protect are germane to organization's purpose; and (3) neither claim asserted nor relief requested requires participation of individual members in lawsuit.

[4] Civil Rights Nominal damages

Nominal damages are available under § 1983 when plaintiff alleges that its constitutional rights were violated. 42 U.S.C.A. § 1983.

1 Case that cites this headnote

[5] **Associations** Education
Civil Rights Education

Parents organization had standing to bring § 1983 action seeking nominal damages to redress alleged violations of its members' First Amendment rights based on restrictions on their speech during school board meetings. U.S. Const. Amend. 1; 42 U.S.C.A. § 1983.

1 Case that cites this headnote

[6] **Constitutional Law** Freedom of Speech, Expression, and Press

When it comes to standing for prospective relief in First Amendment cases, injury requirement is most loosely applied because of fear that free speech will be chilled even before law, regulation, or policy is enforced. U.S. Const. Amend. 1.

[7] **Constitutional Law** First Amendment in General

So long as plaintiffs are chilled from engaging in activity protected by First Amendment, they have suffered discrete harm that meets Article III's injury requirement for standing. U.S. Const. art. 3, § 2, cl. 1; U.S. Const. Amend. 1.

[8] **Constitutional Law** Freedom of Speech, Expression, and Press

Plaintiffs have standing to seek prospective relief in action alleging First Amendment violations if operation or enforcement of challenged policies would cause reasonable would-be speaker to self-censor. U.S. Const. Amend. 1.

[9] **Associations** Education
Civil Rights Education

Parents organization and its members had standing to seek prospective relief in their § 1983 action alleging that school board's rules prohibiting abusive, personally directed, and obscene speech during public comment period of board meetings violated First Amendment facially and as applied; members credibly alleged that they had already self-censored their speech at board meetings because of board's policies, that reasonable person in their shoes would have done the same, in light of severe consequences for violating rules, including criminal sanctions of up to 60 days in jail and $500 fine, and that they had witnessed board interrupt and berate speakers—including other members—for violating policies. U.S. Const. Amend. 1; 42 U.S.C.A. § 1983.

2 Cases that cite this headnote

[10] **Constitutional Law** School board officials and meetings

School board meetings qualify as limited public forums, for First Amendment free speech purposes, because they are created for certain groups or for discussion of certain topics. U.S. Const. Amend. 1.

1 Case that cites this headnote

[11] **Constitutional Law** Justification for exclusion or limitation

In limited public forum, First Amendment requires that government's restrictions on speech not discriminate against speech on basis of viewpoint, and that restrictions be reasonable in light of purpose served by forum. U.S. Const. Amend. 1.

3 Cases that cite this headnote

[12] **Constitutional Law** Viewpoint or idea discrimination

First Amendment generally forbids government to regulate speech in ways that favor some viewpoints or ideas at expense of others. U.S. Const. Amend. 1.

[13] **Constitutional Law** Justification for exclusion or limitation

Under First Amendment, purpose-based restrictions on speech in limited public forum must be wholly consistent with government's legitimate interest in preserving property for use to which it is lawfully dedicated, and prohibited speech must be naturally incompatible with forum's purposes. U.S. Const. Amend. 1.

3 Cases that cite this headnote

[14] **Constitutional Law** Justification for exclusion or limitation

Under First Amendment, speech restriction in limited public forum need not be the most reasonable or even the only reasonable limitation. U.S. Const. Amend. 1.

2 Cases that cite this headnote

[15] **Constitutional Law** Justification for exclusion or limitation

Even restrictions on speech in limited public forum that pursue legitimate objectives can be unlawful under First Amendment if their enforcement cannot be guided by objective, workable standards. U.S. Const. Amend. 1.

[16] **Constitutional Law** Justification for exclusion or limitation

Policy that restricts speech in limited public forum is unreasonable, for First Amendment purposes, if it fails to define key terms, lacks any official guidance, and vests too much discretion in those charged with its application. U.S. Const. Amend. 1.

[17] **Constitutional Law** Justification for exclusion or limitation

For restriction on speech in limited public forum to comply with First Amendment, government must, at very least, be able to articulate some sensible basis for distinguishing what may come in from what must stay out. U.S. Const. Amend. 1.

[18] **Constitutional Law** Justification for exclusion or limitation

Grant of unrestrained discretion to official responsible for monitoring and regulating First Amendment activities in limited public forum is facially unconstitutional. U.S. Const. Amend. 1.

[19] **Constitutional Law** Facial challenges

In First Amendment facial challenges, question is whether substantial number of law's applications are unconstitutional, judged in relation to statute's plainly legitimate sweep. U.S. Const. Amend. 1.

[20] **Constitutional Law** School board officials and meetings

Education Meetings

School board policy permitting board's presiding officer to interrupt speech during public comment period of board meeting that he or she deemed "abusive" violated First Amendment; policy did not offer any meaning for term "abusive," and policy was enforced against speech that was critical of board's policies, "name-calling," and speech that was deemed abusive to speaker herself. U.S. Const. Amend. 1.

1 Case that cites this headnote

[21] **Constitutional Law** Offensive, vulgar, abusive, or insulting speech

Under First Amendment, public expression of ideas may not be prohibited merely because ideas are themselves offensive to some of their hearers. U.S. Const. Amend. 1.

1 Case that cites this headnote

[22] **Constitutional Law** Freedom of Speech, Expression, and Press

Under First Amendment, government may not burden speech of others in order to tilt public

debate in preferred direction. U.S. Const. Amend. 1.

[23] **Federal Courts** Particular Cases, Contexts, and Questions

Request for nominal damages saves matter from becoming moot as unredressable when plaintiff bases his claim on completed violation of legal right.

2 Cases that cite this headnote

[24] **Constitutional Law** School board officials and meetings

Education Meetings

School board policy disallowing speakers from addressing or questioning board members individually during public comment period of board meetings, requiring instead that all statements be directed to presiding officer, was unreasonable restriction on speech as applied, in violation of First Amendment, even though it was viewpoint neutral, where enforcement was so inconsistent that it was impossible to discern standard used to assess which speech was permitted at any given meeting. U.S. Const. Amend. 1.

[25] **Constitutional Law** School board officials and meetings

Education Meetings

School board policy allowing presiding officer to stop speaker during public comment period of board meetings when speaker's remarks were "personally directed" at anyone not on board was unreasonable restriction on speech, and thus facially unconstitutional under First Amendment; policy did not define "personally directed," policy did not obviously advance board's goals of ensuring that speakers could share their perspectives and of maintaining decorum, and policy actively obstructed core purpose of board's meetings—educating board and community about community members' concerns. U.S. Const. Amend. 1.

1 Case that cites this headnote

[26] **Constitutional Law** Lack of constitutional protection

Obscenity is unprotected category of speech under First Amendment. U.S. Const. Amend. 1.

[27] **Constitutional Law** Obscenity in General

Material is "obscene," and thus not protected by First Amendment, when (1) average person, applying contemporary community standards would find that work, taken as a whole, appeals to prurient interest; (2) work depicts or describes, in patently offensive way, sexual conduct specifically defined by applicable state law; and (3) work, taken as a whole, lacks serious literary, artistic, political, or scientific value. U.S. Const. Amend. 1.

[28] **Constitutional Law** School board officials and meetings

Education Meetings

School board's policy prohibiting obscene speech during public comment period of board meetings violated First Amendment as applied to prohibit parent concerned that her child's elementary school library contained inappropriate books from reading from book detailing in-school sexual encounter, even though passage read contained coarse language; content of books in school libraries was matter of serious community interest, and it would be difficult, if not impossible, for speakers to adequately air their concerns about particular book without informing both board and community about what that book said. U.S. Const. Amend. 1.

***1327** Appeal from the United States District Court for the Middle District of Florida, D.C. Docket No. 6:21-cv-01849-RBD-DAB

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Before Wilson, Grant, and Lagoa, Circuit Judges.

Opinion

Grant, Circuit Judge:

***1328** For many parents, school board meetings are the front lines of the most meaningful part of local government—the education of their children. And sometimes speaking at these meetings is the primary way parents interact with their local leaders or communicate with other community members. No one could reasonably argue that this right is unlimited, but neither is the government's authority to restrict it.

A group called Moms for Liberty brought this lawsuit on behalf of members who say their speech was chilled and silenced at Brevard County School Board meetings. According to the Board's presiding officer, their comments were "abusive," "personally directed," "obscene," or some combination of the three. Because the first prohibition was viewpoint based, the second was both unreasonable and vague, and the application of the third was (at a minimum) unreasonable, these policies are unconstitutional. The district court erred by granting summary judgment to Brevard Public Schools.

I.

The Brevard County School Board, recognizing "the value to school governance of public comment," allows members of the public to speak for up to three minutes during designated portions of its meetings. During the events leading up to this lawsuit, the Board enforced a variety of other rules too, a few of which are relevant here. The first was that "no person may address or question Board members individually," so speakers were allowed to direct their comments only "to the presiding officer." [1] Another policy barred statements that were "too lengthy, personally directed, abusive, obscene, or irrelevant." Then-Board Chair Misty Haggard-Belford enforced these rules, and she testified that their general purpose was to maintain decorum and prevent "the incitement of other audience members in a manner that would create an unsafe situation or one that may adversely impact children."

For their part, the plaintiffs assert that Belford's pattern of enforcement was confusing at best, with the same kinds of speech silenced on some days but not on others, and some speakers interrupted for reasons that did not match up with what they were saying. Belford seldom gave speakers a contemporaneous explanation for why she interrupted or

silenced them, at least not one that was tethered to the language in the participation policies. Rather, in preparation for this litigation Belford provided retrospective explanations for her enforcement decisions. Even still, her reasoning often relied on a combination ***1329** of the policies. Because of the uneven and unpredictable enforcement history, these parents contend that they have been pressured to self-censor their comments or avoid speaking at all.

Moms for Liberty, along with several individual members, filed a lawsuit seeking declaratory and injunctive relief, along with nominal damages, against the Brevard Public Schools and members of Brevard County School Board.[2] These plaintiffs assert that the prohibitions against personally directed and abusive speech violate the First Amendment, both facially and as applied. They also challenge the prohibition on obscene speech as applied. And they say all three categorical prohibitions are void for vagueness. Moms for Liberty moved for a preliminary injunction against the policies' enforcement, which the district court denied. The group then moved to stay further proceedings pending the outcome of its appeal from that denial. That request was also denied. In an unpublished decision, this Court summarily affirmed the denial of the preliminary injunction. *Moms for Liberty v. Brevard Pub. Schs.*, No. 22-10297, 2022 WL 17091924 (11th Cir. Nov. 21, 2022) (unpublished).

The district court ultimately granted the Board's motion for summary judgment. It first concluded that Moms for Liberty did not have standing because neither the organization nor its members could show that they had suffered an injury that was "actual or imminent." The Board's rules did not objectively chill their protected speech, the court held, because some members continued to speak at meetings and the Board Chair's interruptions were of minimal consequence to them.[3] Ordinarily that is where things would (and should) have ended, at least as far as the district court was concerned—if a party lacks standing, the court has no jurisdiction to decide the merits. *See Murthy v. Missouri*, 603 U.S. 43, 144 S. Ct. 1972, 1985, 219 L.Ed.2d 604 (2024). Even so, the district court here went on to conclude that the Board's policies and enforcement practices were constitutional. This appeal followed.

II.

[1] We review a grant of summary judgment de novo. *Smith v. Owens*, 848 F.3d 975, 978 (11th Cir. 2017). Summary judgment is appropriate when, drawing all inferences in the light most favorable to the nonmoving party, "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Del Castillo v. Sec'y, Florida Dep't of Health*, 26 F.4th 1214, 1219 (11th Cir. 2022) (quoting Fed. R. Civ. P. 56(a)).

III.

We first consider standing. As it did below, the Board contends that Moms for Liberty lacks standing to challenge the Board's policies because its members do not have a credible threat of impending injury—their fear, the Board says, is not "objectively reasonable." Any threat of interruption or removal from meetings on account of these policies, the Board argues, is too minimal to really have had a chilling effect. And, the Board says, Moms for Liberty has failed to show any past injuries from the Board's enforcement actions. We disagree.

***1330** **[2]** **[3]** To begin, we recognize that Moms for Liberty has requested both retrospective relief in the form of nominal damages and prospective relief in the form of an injunction against future enforcement of the challenged policies against its members. Because "standing is not dispensed in gross," Moms for Liberty must demonstrate standing for each of these forms of relief. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431, 141 S.Ct. 2190, 210 L.Ed.2d 568 (2021).[4]

[4] **[5]** As for its claims for nominal damages, this requirement is easily satisfied. Under § 1983, the provision under which Moms for Liberty has brought this suit, nominal damages are available when a plaintiff alleges that its constitutional rights were violated. *See Amnesty Int'l, USA v. Battle*, 559 F.3d 1170, 1177 (11th Cir. 2009). Because several members have alleged that they were unconstitutionally censored at meetings by the enforcement of the Board's policies, Moms for Liberty and its members have standing to seek nominal damages to redress those violations.

[6] **[7]** **[8]** When it comes to standing for prospective relief in First Amendment cases like this one, the "injury requirement is most loosely applied" because of "the fear that free speech will be chilled even before the law, regulation, or policy is enforced." *Hallandale Pro. Fire Fighters Loc. 2238 v. City of Hallandale*, 922 F.2d 756, 760 (11th Cir. 1991). So long as plaintiffs are "chilled from engaging in constitutional activity," they have suffered a discrete harm that meets Article

III's injury requirement. *Speech First, Inc. v. Cartwright*, 32 F.4th 1110, 1120 (11th Cir. 2022) (quotation omitted). When there is a danger of self-censorship, "harm can be realized even without an actual prosecution." *Wollschlaeger v. Governor, Florida*, 848 F.3d 1293, 1305 (11th Cir. 2017) (en banc) (quotation omitted). So the plaintiffs have standing to seek prospective relief if the "operation or enforcement" of the Board's policies "would cause a reasonable would-be speaker to self-censor." *Speech First*, 32 F.4th at 1120 (alteration adopted and quotations omitted).

[9] The Board's argument that Moms for Liberty—not to mention the individual plaintiffs—cannot meet this standard is borderline frivolous. Several members who are individual plaintiffs have credibly alleged that they have already self-censored their speech at Brevard County School Board meetings because of the Board's policies, and that a reasonable person in their shoes would have done the same. After all, the consequences could be severe. As Belford herself warned attendees prior to meetings, those who "cause a disruption" could be subject to criminal sanctions, "up to 60 days in jail and a $500 fine." The plaintiffs also claim that they have witnessed the Board interrupt and berate speakers—including other Moms for Liberty members—for violating the policies. Joseph Cholewa asserted that he writes his speeches on "pins and needles" ***1331** because he knows he needs to be "very selective" with his words to avoid interruption or removal; in fact, he has been prevented from finishing his comments several times. Ashley Hall said that she is "more careful" about what she says at meetings because she is "afraid that criticizing Defendants will be deemed a 'disruption,' " and that she "will be prosecuted." And Amy Kneessy revealed that she avoids speaking altogether because she wishes to speak about individual staff members and the programs they are implementing in Brevard Public Schools, but she fears that these comments would lead to her being "chastised, criticized, or silenced." At least one member has even been expelled from a Board meeting. We have no trouble concluding that the operation of the Board's policies governing participation in the public comment portions of their meetings objectively chills expression.

We also need to address two other antecedent issues—both relating to the scope of the record. The Board insists that we must confine our review to the five occasions during the relevant time period when Moms for Liberty members themselves were interrupted or removed from meetings. We reject that contention—the Board's proposed limitation is artificial and unwarranted. Enforcement acts against similarly situated speakers are relevant, both to whether the policies will be applied to Moms for Liberty members and to whether their speech is chilled as an effect. *See 303 Creative LLC v. Elenis*, 600 U.S. 570, 581–83, 588, 143 S.Ct. 2298, 216 L.Ed.2d 1131 (2023). We decline to limit our review based on the identity of the thwarted speaker.

We do, however, limit the record in a different respect. Moms for Liberty's briefing points out several episodes from 2022. A few involved restricting speech—one speaker was interrupted before she could begin reading an excerpt from a sexually suggestive library book, and another was interrupted for personally directed speech relating to a former teacher showing his penis to a student. The third example went in the other direction—Belford allowed a teacher to speak without interruption despite addressing school administrators by name. But however probative these examples may have been, the district court struck them from the amended complaint, saying they postdated the filing of the litigation and would inappropriately broaden the scope of the case. Because Moms for Liberty did not appeal that decision, the additional evidence is outside the scope of our review and we do not consider it.

IV.

[10] **[11]** We now turn to the merits of the appeal. We agree with the parties that the school board meetings here qualify as limited public forums because they are created "for certain groups or for the discussion of certain topics." *McDonough v. Garcia*, 116 F.4th 1319, 1323-24, 1327-30, No. 22-11421 (11th Cir. Sept. 16, 2024) (en banc) (quotation omitted). The Brevard County School Board meetings are for parents and community members to "express themselves on school matters of community interest." In a limited public forum, the government's restrictions on speech "must not discriminate against speech on the basis of viewpoint," and "must be reasonable in light of the purpose served by the forum." *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106–07, 121 S.Ct. 2093, 150 L.Ed.2d 151 (2001) (quotation omitted).

[12] The First Amendment generally "forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others." ***1332** *Otto v. City of Boca Raton*, 981 F.3d 854, 864 (11th Cir. 2020) (emphasis omitted) (quoting *Members of the City Council v. Taxpayers for Vincent*, 466 U.S. 789, 804, 104 S.Ct.

2118, 80 L.Ed.2d 772 (1984)). Indeed, though the Supreme Court has never categorically prohibited restrictions based on viewpoint, it has come close: "Discrimination against speech because of its message is presumed to be unconstitutional." *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828, 115 S.Ct. 2510, 132 L.Ed.2d 700 (1995); *see also Taxpayers for Vincent*, 466 U.S. at 804, 104 S.Ct. 2118. Viewpoint discrimination is thus "the greatest First Amendment sin." *Honeyfund.com Inc. v. Governor, Florida*, 94 F.4th 1272, 1277 (11th Cir. 2024). That constitutional constraint holds in limited public forums, meaning that the "government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction." *Rosenberger*, 515 U.S. at 829, 115 S.Ct. 2510.

[13] **[14]** The reasonableness inquiry, on the other hand, is more flexible and context specific, and will depend on the nature and purpose of the forum. *McDonough*, 116 F.4th at 1327-28; *Bloedorn v. Grube*, 631 F.3d 1218, 1231 (11th Cir. 2011). To pass muster, such purpose-based restrictions must be "wholly consistent with the government's legitimate interest in 'preserving the property for the use to which it is lawfully dedicated,' " and prohibited speech must be " 'naturally incompatible' with the purposes of the forum." *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass'n, Inc.*, 942 F.3d 1215, 1244–45 (11th Cir. 2019) (alterations adopted and ellipsis omitted) (first quoting *Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37, 50–51, 103 S.Ct. 948 (1983); and then quoting *Int'l Soc'y for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 690–91, 112 S.Ct. 2701, 120 L.Ed.2d 541 (1992) (O'Connor, J., concurring)). So what is reasonable in one forum may not be reasonable in another. "[T]he purpose of a university," for example, "is strikingly different from that of a public park." *Bloedorn*, 631 F.3d at 1233–34. And a speech restriction in a limited public forum "need not be the most reasonable" or even "the only reasonable limitation." *Christian Legal Soc'y Chapter of the Univ. of California, Hastings Coll. of the L. v. Martinez*, 561 U.S. 661, 692, 130 S.Ct. 2971, 177 L.Ed.2d 838 (2010) (quotation omitted). But flexible is not the same thing as nonexistent—though reasonableness is a "forgiving" test, it is not a blank check. *Minnesota Voters All. v. Mansky*, 585 U.S. 1, 17, 138 S.Ct. 1876, 201 L.Ed.2d 201 (2018).

[15] **[16]** **[17]** **[18]** In fact, even restrictions that pursue legitimate objectives can be unlawful if their enforcement cannot be "guided by objective, workable standards." *Id.* at 21, 138 S.Ct. 1876. After all, an "indeterminate prohibition carries with it the opportunity for abuse," particularly when that prohibition "has received a virtually open-ended interpretation." *Id.* (alteration adopted and quotation omitted). So a policy is unreasonable if it "fails to define key terms, lacks any official guidance, and vests too much discretion in those charged with its application." *Young Israel of Tampa, Inc. v. Hillsborough Area Reg'l Transit Auth.*, 89 F.4th 1337, 1347 (11th Cir. 2024). At the very least, the government "must be able to articulate some sensible basis for distinguishing what may come in from what must stay out." *Mansky*, 585 U.S. at 16, 138 S.Ct. 1876. But a "grant of unrestrained discretion to an official responsible for monitoring and regulating First Amendment activities is facially unconstitutional." ***1333** *Atlanta J. & Const. v. City of Atlanta Dep't of Aviation*, 322 F.3d 1298, 1310 (11th Cir. 2003). The government, in short, must avoid enforcement that is "haphazard and arbitrary." *Cambridge Christian Sch.*, 942 F.3d at 1243. [5]

[19] Moms for Liberty challenges each of the policies as applied to its members, and it challenges the prohibitions on "abusive" and "personally directed" speech as facially invalid too. An as applied challenge is just what it sounds like—we ask whether the policy was or can be constitutionally applied to the plaintiffs' protected activity. *See Jacobs v. Florida Bar*, 50 F.3d 901, 906 (11th Cir. 1995); *CAMP Legal Def. Fund, Inc. v. City of Atlanta*, 451 F.3d 1257, 1270–71 (11th Cir. 2006). In a facial challenge, by contrast, the plaintiff "seeks to invalidate a statute or regulation itself." *United States v. Frandsen*, 212 F.3d 1231, 1235 (11th Cir. 2000). Facial challenges are ordinarily disfavored and are generally harder to win. *See Moody v. NetChoice, LLC*, 603 U.S. 707, 144 S. Ct. 2383, 2397, 219 L.Ed.2d 1075 (2024). In First Amendment facial challenges, the question is whether "a substantial number of the law's applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep." *Id.* (alteration adopted and quotation omitted).

In the context of the "reasonableness" analysis specifically, our Court has explained that a law or policy found to be constitutionally unreasonable "due to lack of standards and guidance is by definition facially invalid." *Young Israel*, 89 F.4th at 1350. That is because whether a policy is "incapable of reasoned application" does not depend on the speaker's identity or the message they wish to convey, but on "the vagueness and imprecision" of the policy "in a vacuum." *Id.* at 1351 (quotation omitted). Thus, a policy that is invalid for those reasons is necessarily invalid in all of its applications.

In sum, in a First Amendment case like this one—involving a limited public forum—the government's rules must be viewpoint neutral and reasonable.

V.

Moms for Liberty challenges three Board policies: the rule against "abusive" speech, the rule against "personally directed" speech, and the rule against "obscene" speech. For each one, a simple look at the written policy yields an incomplete picture. But the Board's explanation of its policies, as well as its record of enforcement, fill in the blanks—revealing serious constitutional problems.

A.

[20] We start with the policy permitting the Board's presiding officer to interrupt speech seen as "abusive." The way that Board Chair Belford interprets and enforces the rule diverges from the common understanding of the word "abusive." As enforced, the policy bars using terms that people generally agree are "unacceptable."

Because the Board's policies for public participation do not offer any meaning for the term "abusive," we start by looking at dictionaries, which define it to mean "using harsh, insulting language," and "habitually cruel, malicious, or violent; esp., using cruel words or physical violence." *Abusive*, Merriam-Webster, [https://perma.cc/B9RH-TFWC]; *Abusive*, Black's Law Dictionary (11th ed. 2019). Belford initially explained "abusive" in a way that was at least directionally similar to these definitions: ***1334** "yelling, screaming, profanity, those sorts of things."

Fair enough—but that is not where she landed. When asked to give her own definition, the one used to enforce the policy in Board meetings, Belford could not do so. At least at first—she eventually elaborated on her initial definition, explaining that speech would be abusive if "someone were yelling, screaming, cussing, you know, calling people names." Expanding on that last element, Belford said the policy would prohibit calling people "names that are generally accepted to be unacceptable." That definition is constitutionally problematic because it enabled Belford to shut down speakers whenever she saw their message as offensive.

The record of enforcement supports the contention that this was the operative definition. At one meeting, for example, she interrupted a speaker who criticized the Board's Covid-19 masking policy as a "simple ploy to silence our opposition to this evil LGBTQ agenda." Belford quickly stopped the speaker, who had not yelled, screamed, or otherwise caused a disruption. In her affidavit, Belford explained that she interrupted him because his "characterization of people as 'evil' was abusive."

Belford interrupted another speaker who was criticizing the Board's policies on gender in school bathrooms and school-sponsored sports. According to Belford, the speaker had engaged in abusive "name-calling" by referring to the "liberal left." Yet another speaker was interrupted for repeating insults leveled at her by protestors outside the Board meeting. In stopping her, Belford contended that the speaker had improperly repeated words that were abusive to the speaker herself.

No one likes to be called evil, but it is not "abusive" to use that term. Restrictions that bar offensive or otherwise unwelcome speech are impermissible, regardless of the forum in which the government seeks to impose them. A prohibition on all offensive—or "unacceptable," as Belford put it—speech may appear neutral. After all, it prohibits a speaker from saying anything offensive about any person or any topic. But "[g]iving offense is a viewpoint." *Matal v. Tam*, 582 U.S. 218, 243, 137 S.Ct. 1744, 198 L.Ed.2d 366 (2017) (plurality opinion); *see also Iancu v. Brunetti*, 588 U.S. 388, 396, 139 S.Ct. 2294, 204 L.Ed.2d 714 (2019). And a restriction barring that viewpoint effectively requires "happy-talk," permitting a speaker to give positive or benign comments, but not negative or even challenging ones. *Matal*, 582 U.S. at 246, 137 S.Ct. 1744 (plurality opinion); *id.* at 249, 137 S.Ct. 1744 (Kennedy, J., concurring in part and concurring in the judgment). And if the only ideas that can be communicated are views that everyone already finds acceptable, why have the school board meetings in the first place? A state cannot prevent "both willing and unwilling listeners from hearing certain perspectives," because "for every one person who finds these viewpoints offensive, there may be another who welcomes them." *Honeyfund.com*, 94 F.4th at 1282.

[21] To say that a government may not burden speech simply because some listeners find it unacceptable is nothing new. Indeed, it is "firmly settled" under our Constitution that "the public expression of ideas may not be prohibited merely

because the ideas are themselves offensive to some of their hearers." *Street v. New York*, 394 U.S. 576, 592, 89 S.Ct. 1354, 22 L.Ed.2d 572 (1969); *see also Texas v. Johnson*, 491 U.S. 397, 414, 109 S.Ct. 2533, 105 L.Ed.2d 342 (1989). The government has no authority to curtail the sphere of acceptable debate to accommodate "the most squeamish among us." ***1335** *Cohen v. California*, 403 U.S. 15, 25, 91 S.Ct. 1780, 29 L.Ed.2d 284 (1971). Instead, we expect listeners to judge the content of speech for themselves. The government is ill-equipped in any event to decide what is or is not offensive. *Id.* Enduring speech that irritates, frustrates, or even offends is a "necessary cost of freedom." *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 575, 131 S.Ct. 2653, 180 L.Ed.2d 544 (2011). [6]

[22] To be sure, a different policy—one prohibiting viewpoint-neutral characteristics of speech, for example, or explicitly and narrowly defining "abusive"—could be constitutional. But here, the ban on "abusive" speech is an undercover prohibition on offensive speech. Because the government "may not burden the speech of others in order to tilt public debate in a preferred direction," the Board's policy on "abusive" speech is facially unconstitutional. *Id.* at 578–79, 131 S.Ct. 2653.

B.

We next consider the Board's prohibitions on "personally directed" speech. Both policies were in effect during all of the events relevant to this lawsuit. Now, one has been changed and one remains on the books. The first disallowed addressing or questioning Board members individually, requiring instead that all statements be directed to the presiding officer; this restriction was repealed shortly after this appeal was filed. The other rule, which remains in effect, allows the presiding officer to stop a speaker when her remarks are "personally directed" at anyone not on the Board. We consider each policy.

1.

[23] We start with the first—the policy that prohibited speakers from addressing Board members individually. The Board argues that all of Moms for Liberty's arguments against the personally directed prohibition are moot because the old policy is gone. No such luck. Though prospective relief barring enforcement of the pre-amendment policy is no longer available, nominal damages for past harms are. That means the claim is still live: "a request for nominal damages saves a matter from becoming moot as unredressable when the plaintiff bases his claim on a completed violation of a legal right." *Keister v. Bell*, 29 F.4th 1239, 1251 (11th Cir. 2022); *see also Uzuegbunam v. Preczewski*, 592 U.S. 279, 292, 141 S.Ct. 792, 209 L.Ed.2d 94 (2021).

[24] With that out of the way, we consider whether the policy prohibiting speakers from addressing individual Board members was viewpoint neutral and reasonable in light of the meetings' purpose. *Mansky*, 585 U.S. at 13, 138 S.Ct. 1876. Based on the record here, we do not see evidence of viewpoint-based discrimination. So the only question is whether the policy was reasonable. It was not.

The reasonableness test, as we have explained, asks in part whether a restriction on speech is enforced in an arbitrary or haphazard way. *Cambridge Christian Sch.*, 942 F.3d at 1240. Asking if the Board's approach to this policy was "haphazard" is like asking if the sky is blue—enforcement was so inconsistent that it is impossible to discern the standard used to assess which ***1336** speech was permitted at any given meeting.

At some meetings, speakers were allowed to address Board members by name to give them thanks and praise. Offering thanks, however, was not always a shield; one speaker was interrupted when she tried to thank a Board member for his positive impact on her daughter. And at another meeting, Belford cut off a Moms for Liberty member who tried to personally thank a Board member.

On yet another occasion, Belford said nothing when a local high school student addressed one Board member by name while advocating for her theater group to rehearse in the school's indoor facilities. But when a Moms for Liberty member questioned how he, as a parent, could "stand up for District Two" while having to watch the Board member for that district "behind a plastic prison" (referring to a plexiglass barrier in place during the Covid-19 era), Belford and another Board member interrupted him for calling out one of the Board members and informed him that he could not talk to or about his specific representative.

This kind of inconsistent enforcement is exactly what this Court and the Supreme Court have warned against. *See Mansky*, 585 U.S. at 16–22, 138 S.Ct. 1876; *Young Israel*, 89 F.4th at 1347–49. Permitting certain speech on some days

and not on others without "any credible explanation of what may have changed is the essence of arbitrary, capricious, and haphazard—and therefore unreasonable—decisionmaking." *Cambridge Christian Sch.*, 942 F.3d at 1244. For that reason, we agree with Moms for Liberty that the now-repealed prohibition against addressing individual Board members was unconstitutionally applied.

2.

[25] Turning to the current policy, we consider whether disallowing speech that is "personally directed" can stand as reasonable. As with the prohibition on "abusive" speech, the Board's policy does not define "personally directed." Belford first described it as "[a]nything that's directed at a person." But when pressed for more, she suggested that the policy prohibited speech naming an individual, possibly (but not always) coupled with some sort of personal information about that person. One refrain that Belford repeated in her testimony was that the applicability of the policy "would depend on the circumstances."

Belford followed up with various examples. She explained that "if someone is saying to me, 'My friend Susie's son has an IEP for this,' yes, I'm going to stop them because they're sharing someone else's information that shouldn't be public information." But if the speaker just said " 'my daughter's friend said that this occurred in school,' and there's no name, that's a different situation." Just mentioning a name, however, might not be enough: "So if you're saying your wife's name and you're just mentioning her name, I don't know that I could consider that personally directed. If you're saying, 'My friend John was raped by someone or my'—you know what I mean?" Respectfully, we do not.

Belford's own inability to define the policy that she was tasked with enforcing speaks volumes. The track record of this policy's enforcement mirrors Belford's muddled definition. Sometimes just mentioning someone's name was enough to provoke interruption, but other times using a name was met with no resistance. At one meeting, for example, speakers advocating for the rehiring of two coaches were interrupted for naming the coaches and were told to refer to them as "these coaches" instead. But at another meeting, multiple ***1337** speakers were allowed to address and thank the Superintendent by name throughout the meeting.

Even though Belford's definition seemed to require, at least as a baseline, that a speaker use someone's name to violate this policy, the record reflects several times when speakers were interrupted for personally directed speech even though they did not name anyone—at all. Nor did they direct their speech toward anyone in particular. At one meeting, for example, Belford interrupted a speaker who gestured toward one side of the room and said "I keep hearing this side talk about freedom and their choices." This reference, Belford said, violated the policy against personally directed speech. And at yet another meeting, Belford interrupted yet another comment she said was "personally directed": "The sad fact is that all children do not live with accepting and affirming families. Can you imagine the LGBTQ student who may live with families such as those who were here at the last meeting?" Again, no names.

As these examples illustrate, enforcement of this policy was as inconsistent as the definitions offered to support it. The Board has not articulated any "sensible basis for distinguishing what may come in from what must stay out." *Mansky*, 585 U.S. at 16, 138 S.Ct. 1876. Such unpredictable and haphazard enforcement is not reasonable. Instead, it reflects no boundaries beyond the presiding officer's real-time judgment about who to silence. *See Cambridge Christian Sch.*, 942 F.3d at 1243–44.

In part because of the unsettled boundaries of the policy purportedly banning personally directed comments, we also find it difficult to discern what ends it might serve. The Board claims that the policy's purposes include ensuring "that speakers can share their perspectives, regardless of viewpoint, while preventing disruption or interference with the Board's ability to conduct its business." It also asserts that the policy is meant to "maintain decorum and avoid inciting audience members in a manner that would create an unsafe situation." But even a charitable reading of the policy does not obviously (or even indirectly) advance these goals. For example, would using someone's name—even in a positive comment and whether or not the person is there—"disrupt" or "incite" audience members, or create an "unsafe situation"? We do not see how.

Not only does this policy against personally directed speech not advance the goals that the Board claims it serves, it actively obstructs a core purpose of the Board's meetings—educating the Board and the community about community members' concerns. If a parent has a grievance about, say, a math teacher's teaching style, it would be challenging to adequately explain the problem without referring to that math

teacher. Or principal. Or coach. And so on. Likewise when a parent wishes to praise a teacher or administrator. Such communications are the heart of a school board's business, and the ill-defined and inconsistently enforced policy barring personally directed speech fundamentally impedes it without any coherent justification.

To be sure, sometimes meetings can get tense—no one enjoys being called out negatively, and some may even dislike public praise. But that is the price of admission under the First Amendment. Rather than curtail speech, as "a Nation we have chosen a different course—to protect even hurtful speech on public issues to ensure that we do not stifle public debate." *Snyder v. Phelps*, 562 U.S. 443, 461, 131 S.Ct. 1207, 179 L.Ed.2d 172 (2011). Because the policy's contours are undefined and the record of enforcement only casts a shadow over the school board meetings' purposes, ***1338** the Board's prohibition on personally directed speech is unreasonable and thus facially unconstitutional. *See Young Israel*, 89 F.4th at 1350–51.

C.

Last, we turn to the policy prohibiting "obscene" speech. Once again, the Board did not define its terms, but Belford did. Obscene speech, she said, includes "things that are not appropriate for young children. Language that is generally accepted to be profane." Profanity, in turn, includes "things that are sexually explicit" and "words that are typically considered to be inappropriate for use in school." Moms for Liberty challenges this part of the policy not on its face, but as applied—specifically as applied to reading a book from an elementary school library.

[26] **[27]** Again, it seems clear that at least some iterations of an obscenity policy would be constitutional—obscenity is one of the few unprotected categories of speech under the First Amendment. *Brown v. Ent. Merchs. Ass'n*, 564 U.S. 786, 791, 131 S.Ct. 2729, 180 L.Ed.2d 708 (2011). But that constitutional standard is exceptionally narrow: material is obscene when (1) "the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest"; (2) "the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law"; and (3) "the work, taken as a whole, lacks serious literary, artistic, political, or scientific value." *Miller v. California*, 413 U.S. 15, 24, 93 S.Ct. 2607, 37 L.Ed.2d 419 (1973) (quotation omitted). So if the Board were to use this part of the policy to prohibit true obscenity, that action would survive under even the strictest review. We do not, however, decide whether or how the school board could properly prohibit other profane or explicit speech at school board meetings, even if it does not rise to the level of true obscenity—that question is not before us.

Instead, the Board used its obscenity policy to bar protected speech, and it did so in a way that impeded the purpose of a school board meeting. During the incident Moms for Liberty cites, a member shared her concern that her child's elementary school library contained inappropriate books. She began reading one, which detailed an in-school sexual encounter:

> I tiptoed toward the door, peering through the window at the boy's pants around his ankles squeezed between April's straddled legs as she lay on the teacher's desk. I swung the door open letting a soft light from the hallway shine a spotlight on them. 'Shit!' he muttered.

Belford quickly interrupted the speaker when she got to the word "shit."

[28] That word, though not polite, is also not obscene. Nor is the book's other content, no matter how objectionable it may be as early childhood reading material. Moreover, the content of books in school libraries is a matter of serious community interest. It would be difficult, if not impossible, for speakers to adequately air their concerns about a particular book without informing both the Board and the community about what that book says. Describing the content of a book is not as potent as reading its words—nor is it as informative. And it is remarkable for the Board to suggest that this speech can be prohibited in a school board meeting because it is inappropriate for children when it came directly from a book that is available to children in their elementary school library.

Because this prohibition on obscenity is not about obscenity, and frustrates the ***1339** purpose of the forum, it is an unreasonable policy, at least as it applies to reading portions of books from school libraries. It is therefore unconstitutional as applied here.

* * *

The government has relatively broad power to restrict speech in limited public forums—but that power is not unlimited. Speech restrictions must still be reasonable, viewpoint-neutral, and clear enough to give speakers notice of what speech is permissible. The Board's policies for public participation at Board meetings did not live up to those standards. The district court's judgment is therefore **REVERSED** and the case is **REMANDED** for proceedings consistent with this opinion.

Wilson, Circuit Judge, Concurring in Part and Dissenting in Part:

I join the majority in its judgment to reverse and remand regarding the Brevard Public School (BPS) Board Policy on abusive and obscene speech. As the majority outlines, the Policy's restrictions on abusive and obscene speech were imprecise prohibitions that impermissibly chilled speech. Similarly, the past prohibition on personally directed speech was inconsistently enforced in an unreasonable way given the purpose of the forum. However, I dissent from the majority in Part V.B.2 of the judgment. I would find the present prohibition on personally directed speech facially constitutional given its viewpoint neutrality and reasonableness in light of the forum.

Further, I write separately to contextualize several of the comments that appear in the majority opinion, along with additional examples to illustrate the tenor of comments and interruptions at BPS meetings. By including links to video recordings of each interaction discussed below, I hope to shed some light upon the difficulties of enforcing these policies in real time during heated meetings.

I. Background

The BPS [1] Policy includes a section titled "Public Participation at Board Meetings." This Policy aims to ensure "orderly conduct or proper decorum" during meetings. To achieve this goal, the Policy allows the presiding officer to "interrupt, warn, or terminate a participant's statement when the statement is too lengthy, personally directed, abusive, obscene, or irrelevant." The presiding officer can expel any individual who "does not observe reasonable decorum" and request law enforcement assistance to remove "disorderly" individuals. During the months when the meetings at issue occurred, the Policy required speakers to direct comments "to the presiding officer; no person may address or question board members individually." [2] The BPS Policy did not define "abusive," "obscene," or "personally directed."

All instances at issue in this case occurred between January 19, 2021, and ***1340** October 26, 2021. Within that window, at least thirty-four people identified themselves as Moms for Liberty (M4L) members and collectively spoke at BPS meetings at least 109 times. [3] Of those 109 instances, M4L identify four times when their members were interrupted. Of the four interruptions, only one escalated to a M4L member being asked to leave a meeting for violating the Policy. Hall spoke thirteen times during the relevant period and was interrupted once when she violated the Policy by thanking a specific school board member. Delaney spoke thirteen times with zero interruptions. Kneessy, a former school board member, did not speak at any meetings during the relevant window. Cholewa spoke five times and was interrupted twice, and based on comments he made after continuing to speak after one of those interruptions, he was asked to leave one meeting. The record also indicates interruptions of speakers with viewpoints that differ from those of M4L members.

II. Applicable Law [4]

Parents and community members can speak at BPS meetings to "express themselves on school matters of community interest." Doc. 20 at 113. Like the majority, I agree that school board meetings are limited public forums because they are created "for certain groups or for the discussion of certain topics." *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829, 115 S.Ct. 2510, 132 L.Ed.2d 700 (1995). Government restrictions on speech in a limited public forum must be (1) "viewpoint neutral" and (2) "reasonable in light of the forum's purpose." *Barrett v. Walker Cnty. Sch. Dist.*, 872 F.3d 1209, 1225 (11th Cir. 2017). Reasonable restrictions do not need to "be the most reasonable or the only reasonable limitation." *Bloedorn v. Grube*, 631 F.3d 1218, 1231 (11th Cir. 2011) (quotations omitted). Our circuit has recognized "a significant governmental interest in conducting orderly, efficient meetings of public bodies," *Rowe v. City of Cocoa*, 358 F.3d 800, 803 (11th Cir. 2004) (per curiam). Restrictions to further this interest must remain reasonable. *See Barrett*, 872 F.3d at 1224–25.

Both the Supreme Court and our circuit have been imprecise and inconsistent when conducting forum analyses. *See, e.g.*, *Rosenberger*, 515 U.S. at 829, 115 S.Ct. 2510 (first delineating limited public forums as their own category); *Ark. Educ. Television Comm'n v. Forbes*, 523 U.S. 666, 677–78, 118 S.Ct. 1633, 140 L.Ed.2d 875 (1998) (seeming to change the definition of a limited public forum); ***1341** *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106, 121 S.Ct. 2093, 150 L.Ed.2d 151 (2001) (reaffirming the categories recognized in *Rosenberger*); *Minn. Voters All. v. Mansky*, 585 U.S. 1, 11, 138 S.Ct. 1876, 201 L.Ed.2d 201 (2018) (only listing three types of forums rather than the four previously recognized); *Rowe*, 358 F.3d at 802 (applying a narrowly tailored to a significant government interest test to a limited public forum); *Bloedorn*, 631 F.3d at 1225–26, 1231 (applying the viewpoint neutrality and reasonableness test to a limited public forum). Perhaps given the considerable overlap between a limited public forum analysis and nonpublic forum analysis, the majority almost exclusively relies on nonpublic forum precedent. Nonetheless, I am concerned by the dearth of limited public forum cases in the majority's opinion.

Speech restrictions in both nonpublic forums and limited public forums must be both viewpoint neutral and reasonable in light of the forum's purpose. *See Pleasant Grove City v. Summum*, 555 U.S. 460, 470, 129 S.Ct. 1125, 172 L.Ed.2d 853 (2009) (discussing limited public forums); *Mansky*, 585 U.S. at 11, 138 S.Ct. 1876 (discussing nonpublic forums). Although both types of forums use the same legal test, limited public forum cases provide closer factual analogues to BPS meetings. Because a limited public forum analysis requires a reasonableness inquiry, finding a close factual analogue matters even more than in other contexts. Limited public forum cases that involve school board or municipal meetings will often have similar purposes and set out similar speech parameters to meet those purposes, which makes them valuable data points for our analysis.

III. Analysis

Although I concur in judgment with all but part V.B.2 of the majority opinion, I write separately to provide additional context for the statements at issue in this case and to elaborate on where my analysis departs from that of the majority. [5]

A. Abusive Speech

I concur in the judgment finding the BPS Policy's ban on abusive speech facially unconstitutional, but I struggle to see the ban on abusive speech as "an undercover prohibition on offensive speech." Maj. Op. at 1335. When viewed in context, the interruptions mentioned by the majority seem rooted in the difficulties of conducting orderly school board meetings when confrontational speakers make contentious comments. [6] Further, the record reflects numerous arguably offensive statements that went uninterrupted and do not appear in the majority's analysis.

First, I agree with the majority that as written, the Policy's ban on abusive speech could be weaponized and used in a viewpoint ***1342** discriminatory way. [7] The Policy does not define "abusive," and Belford struggled to articulate a clear definition during her deposition. In the abstract, this enables the BPS chair to censor offensive speech, which triggers the dual problems of chilling potential speech and enabling viewpoint discrimination. As the Supreme Court has stated, "[g]iving offense is a viewpoint." *Matal v. Tam*, 582 U.S. 218, 243, 137 S.Ct. 1744, 198 L.Ed.2d 366 (2017) (describing limited public forums in a trademark case). The majority concedes that a more narrow or explicit definition for "abusive" could survive a facial challenge, and I agree. *See* Maj. Op. at 1335.

In addition to analyzing the policy as written, we also must engage with the facts as they appear in the record. Therefore, I include direct quotes from BPS meetings to provide additional context for the interruptions mentioned by the majority.

First, the majority mentions that Belford interrupted a speaker, Thomas Jefferson, who frequently attends BPS meetings. At the March 23 meeting, he characterized the COVID-19 mask policy as "a simple ploy to silence our opposition to this evil LGBTQ agenda." [8] After that interruption, Jefferson continued and was able to express the following views without interruption:

> You are elected to represent the majority of our constituents not the minority of our constituents. And the majority of the people in Brevard County oppose any and all LGBTQ policy changes or implement [sic] in our schools. There may be a

> minority, possibly three percent that would support such a policy. However, the three percent will not get you reelected. There are some people out there that like to label us as a hate group. However, I want to make it perfectly clear here and now we hate the sin not the sinner. ... We hate the sin not the sinners. We are the Christians of Brevard county and all over the world and will not sit silent and allow you to put your evil, sinful policies on our children. ... We will make sure that all members that do not take a stand against these anti-Christ, LGBTQ agenda policies, that we will vote you out the next election cycle. This is God's country, and God will [sic] be done. We the people have spoken. To God be the glory.

Immediately after Jefferson finished speaking, a board member stated: "I just want to throw this out there. I am concerned that we're allowing comments that our students can hear and are probably watching at home that are calling them sinners."

Next, the majority points to an interruption during a speaker's criticism of BPS efforts to support transgender children. Lois Lacoste stated: [9]

> If you have students who are not sure if they are a boy or a girl, please let me help you in knowing that God created us with one or the other chromosome, which makes us male or female. But the ***1343** liberal left, who seem to rely so heavily on "science," ....

She was interrupted for her use of "liberal left," but was permitted to proceed. Lacoste finished her remarks with the following:

> [T]he issue is not about equity or equality. It's about the end of decency in America. The citizens of Brevard County are watching you. More importantly, God Almighty is watching you. How will each one of you answer to Him?

Although the interruption came after the "liberal left" reference, I hesitate to isolate the phrase from the entire comment.

Then, the majority discusses a speaker who was interrupted for repeating language that was "abusive to the speaker herself." Maj. Op. at 1334. But the majority omits critical context that this speaker was a student who spoke about feeling unsafe as she walked into a BPS meeting. This student recounted walking into the meeting as parents outside "screamed at [her], called [her] a bitch, a whore, a prostitute." [10] I am hesitant to sanitize these facts by removing them from the context of parent protestors calling a BPS student these explicit names.

Beyond the examples included by the majority, I include others to demonstrate the general tenor of the interruptions when they occurred. Cholewa, a party to this case, often spoke at BPS meetings. On September 21, 2021, he opened his remarks by stating the following: [11]

> "It's not about freedom." That's a direct quote from the current president of the United States of America, who's a Democrat and a bully. It's definitely about politics, but it's not about science or freedom. I wonder what it was about for any of those who fought against slavery or discrimination, or anyone who has ever fought and died serving our military. It's always been about freedom.

Although arguably already offensive, Cholewa's remarks were not interrupted. He continued until he said the following:

"Let's look at some of the other leftist ideologies we're fighting. We're talking about the party that accepts the murder of full-term babies with abortion. The party that says babies, white babies are born racist and oppressive." At this point, Belford interrupted to say, "Joey, you, you're pushing the limit. Please be respectful, okay?" The recording indicates that Cholewa's comments led to disruption, including yelling and disorder in the room. Amidst this disruption, Belford asked audience members to stop yelling and asked Cholewa to be respectful. However, Cholewa was asked to leave during the following exchange:

> Cholewa: And I will fight you. I'll be here every weekend, and I will be yelling at you and screaming at you and telling you things that you don't want to hear, and that's right, because this is America. I know you don't like freedom, I know you don't like liberty, you don't like the Constitution —
>
> *Belford: All right.*
>
> Cholewa: Guess what. I'm going to keep talking.
>
> *Belford: Leave please. Have a good night.*

***1344** Finally, the record reflects numerous instances where speakers made offensive comments without interruption. For example, one mother of BPS students expressed frustration with the district's mask mandate: "Our freedoms are worth something. It is worth fighting for. And it starts with a yellow star on your chest. These masks are the yellow star on our chests." [12] Another example came from another set of comments from Jefferson who referred to the BPS board as a "board of dictators" and said, "This is America, not Nazi Germany. However, each day in America it seems we are getting closer to Nazi Germany." [13]

If the ban on abusive speech were an undercover prohibition on offensive speech, comments like these would have been categorically interrupted. Rather, the ban on "abusive" speech was an imprecisely worded prohibition, which impermissibly chilled speech by allowing viewpoint discrimination. However, as the above examples illustrate, I do not believe the record reflects it was weaponized. Therefore, I concur in the judgment but go no further.

B. Personally Directed Speech

Although I concur in judgment with respect to Part V.B.1 to find the previous policy prohibiting personally directed speech unconstitutional as applied to M4L, I dissent from Part V.B.2 finding the present policy facially unconstitutional. [14]

1. Past Policy

As I acknowledged above, I believe M4L has standing to pursue nominal damages related to past enforcement of the old restriction against personally directed speech. Rather than truly banning "personally directed" speech, I believe the old ban functioned as an inconsistently enforced ban on *naming* people. Both parties acknowledge that this was viewpoint neutral. That is not enough to protect the policy, which must be reasonable in light of the forum's purpose. *See Barrett*, 872 F.3d at 1225. One core purpose of school board meetings is to provide feedback about people and programs in the district. As applied to M4L (and others) as essentially a ban on naming people, the restriction does not meet our reasonability requirement. Therefore, I concur in judgment as to Part V.B.1.

2. Present Policy

I dissent from the majority as to Part V.B.2 because I would find the new Policy facially constitutional. Presently, the Policy allows speakers to "address comments to the Board as a whole, the presiding officer, or to an individual board member." I read this text to suggest that these are the only people speakers can address, not the only people speakers may mention. This appears to me to be both viewpoint neutral and reasonable given the purposes of a school board meeting.

***1345** The new Policy bans speakers from directing comments *at* particular people. But, for example, a parent addressing the entire board may comment *about* particular teachers or coaches. In addition to remaining viewpoint neutral, I would find this restriction reasonable given the feedback purpose of a school board meeting. We acknowledge a municipal body's interest in conducting orderly meetings. *See Rowe*, 358 F.3d at 803. Footage from the meetings indicates the most disruptive comments being those that seemed directed at members of the audience, such as when Jenkins discussed a person who lurked around her home being present in the board room or when people in the crowd began yelling *at* Jenkins during her same report. [15] We do not require a limited public forum to have the only

reasonable or even the most reasonable restriction on speech, but only a reasonable restriction, given the purpose of the forum. *See Bloedorn*, 631 F.3d at 1231. As written, the new restriction on personally directed speech is a viewpoint neutral restriction reasonable in light of the forum's purpose. I dissent from the majority finding otherwise.

C. Obscene Speech

I agree with the majority that a ban on "some iterations of an obscenity policy would be constitutional" because obscenity is not protected speech. Maj. Op. at 1338; *see Miller v. California*, 413 U.S. 15, 24, 93 S.Ct. 2607, 37 L.Ed.2d 419 (1973). Because obscenity is not protected speech, M4L could not bring a facial challenge to the BPS Policy's obscenity ban. Instead, M4L brought an as-applied challenge to this portion of the policy as an *obscenity* ban. Because the prohibition was not applied to obscenity as used as a term of art in the First Amendment context, I concur in judgment.

Like the majority, I agree that this case does not present a question of "whether or how the school board could properly prohibit other profane or explicit speech at school board meetings." Maj. Op. at 1338. I would not reach the purposes of the forum for this analysis and would remain more rooted in the record.

Again, the rendition of facts in Part V.C. of the majority's opinion removes them from both the immediate context of the speaker's surrounding speech and the broader context of confrontational speakers at a school board meeting.

Here, Michelle Beavers, another M4L member who is not a party to the case, read an alleged excerpt of a book [16]. After beginning her remarks by discussing masks, she mentioned not having much time to talk about books. Abruptly, she pivoted, without prefacing that the following remarks were from a book and not her own:

> I tiptoed toward the door, peering through the window at the boy's pants around his ankles squeezed between April's straddled legs as she lay on the teacher's desk. I swung the door open letting a soft light from the hallway shine a spotlight on them. "Shit!" he muttered.

***1346** After Belford stated, "Ma'am, I need for you to keep your language clean," Beavers continued "[o]h this was our schoolbooks." However, Beavers never mentions what book this quote allegedly came from, the school in which this alleged book was purportedly located, or the age of the students who had access to the book. Later, she claims to quote from a different book found in libraries for second graders. Based on the record, I hesitate to make definitive statements about the language repeated by Beavers as coming "directly from a book that is available to children in their elementary school library." Maj. Op. at 1338.

Finally, M4L only challenges restrictions on speech at BPS board meetings and does not raise any challenges related to alleged obscenity in books. [17] Though I concur in judgment based on obscenity's definition as a term of art in First Amendment jurisprudence, I believe the majority goes further than necessary in its analysis. [18]

* * *

Overall, I find it imperative to contextualize the comments and interruptions at issue within the contentious conversations that occurred at BPS meetings. School board meetings are limited public forums. As such, school boards may restrict speech so long as their restrictions are reasonable in light of the purpose of the forum and maintain viewpoint neutrality. Several of the restrictions used by BPS did not meet these requirements. Therefore, I concur in judgment to all but Part V.B.2 of the majority's opinion.

All Citations

118 F.4th 1324, 435 Ed. Law Rep. 91, 30 Fla. L. Weekly Fed. C 1506

Footnotes

1 While this litigation was pending, the Board revised the policy banning "personally directed" comments. Now "public speakers may address their comments to the Board as a whole, the presiding officer, or to an individual Board member." Brevard Sch. Bd. Policy Manual § 0000 Bylaws, Code po0169.1 ¶ E [https://perma.cc/27TZ-93XN]. But the presiding officer may still interrupt remarks that are personally directed to anyone outside these three categories. *Id.* ¶ H(1). All other relevant policies remain unchanged.

2 For ease of reference, we will collectively refer to the plaintiffs as Moms for Liberty and the defendants as "the Board."

3 The district court did not consider whether the plaintiffs had standing for harms they had already suffered.

4 Under current Supreme Court doctrine, Moms for Liberty as an organization has standing to vindicate the rights of its members when: "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 199, 143 S.Ct. 2141, 216 L.Ed.2d 857 (2023) (quotation omitted). The Board does not challenge the latter two requirements, so to determine whether Moms for Liberty has standing, the question is whether any individual Moms for Liberty members would have standing to sue on their own. Of course, several individual members have also sued here.

5 Moms for Liberty also argues that the prohibitions on "abusive" and "personally directed" speech are unconstitutionally vague. Because we find that these policies are unconstitutional on other grounds, we have no need to reach that issue.

6 The only other circuit court to consider a similar policy has reached the same conclusion. Considering another school board policy prohibiting "abusive" speech, the Sixth Circuit likewise concluded that the term "abusive"—at least as defined by the Board—operated to "prohibit speech purely because it disparages or offends," in violation of the longstanding principle that "the government may not censor speech merely because it is 'offensive to some.' " *Ison v. Madison Loc. Sch. Dist. Bd. of Educ.*, 3 F.4th 887, 894 (6th Cir. 2021) (quoting *Matal*, 582 U.S. at 244, 137 S.Ct. 1744 (plurality opinion)).

1 The BPS members mentioned in the complaint were Misty Haggard-Belford, Matt Susin, Cheryl McDougall, Katye Campbell, and Jennifer Jenkins. Only the claim against Belford survived the motion to dismiss because she was the only one who enforced the Policy.

2 In March 2023, the BPS Board altered the policy to allow speakers during public comment periods to "address their comments to the Board as a whole, the presiding officer, or to an individual Board member" but "[s]taff members or other individuals shall not be addressed by name during public comment." Further, the Policy now states that the presiding officer may "interrupt, warn, or terminate a participant's statement when the statement is too lengthy, personally directed (except as allowed above), abusive, obscene or irrelevant."

3 Four M4L members—Ashley Hall, Joseph Cholewa, Amy Kneessy, and Katie Delaney—brought this lawsuit in their individual capacities along with M4L as an organization. Ashley Hall was the founding chair of Brevard County's chapter. Joseph Cholewa and Amy Kneessy are M4L members. Katie Delaney was an M4L member but left in March 2022. Additional speakers whose interruptions are discussed in the majority opinion include Thomas Jefferson and Lois Lacoste.

4 Before reaching the merits, I note that I concur with the majority in finding that M4L and its individual members have standing for prospective relief by meeting our liberal standard to show that enforcing the Board's policy "would cause a reasonable would-be speaker to self-censor." *Speech First, Inc. v. Cartwright*, 32 F.4th 1110, 1120 (11th Cir. 2022) (internal quotation marks omitted and alteration adopted). They also have standing to challenge the past iteration of the policy barring personally directed speech because "a request for nominal

damages satisfies the redressability element of standing where a plaintiff's claim is based on a completed violation of a legal right." *Uzuegbunam v. Preczewski*, 592 U.S. 279, 141 S. Ct. 792, 802, 209 L.Ed.2d 94 (2021).

5 The facial challenges are being appealed from the motion to dismiss and the as-applied challenges are being appealed from the motion for summary judgment. We apply a de novo standard of review to both types of appeals. *Chabad Chayil, Inc. v. Sch. Bd. of Miami-Dade Cnty.*, 48 F.4th 1222, 1229 (11th Cir. 2022) (regarding motions to dismiss); *King v. King*, 69 F.4th 738, 742 (11th Cir. 2023) (per curiam) (regarding motions for summary judgment).

6 Item K from the July 29 meeting shows how heated BPS meetings could become. Jenkins spoke about the threats she had received because of her stance on the mask mandate. Jenkins's remarks about masks begin at about 15:15. The video recording indicates yelling and jeering from the audience at about 15:50, which resulted in one audience member being escorted out at about 16:24. BPS, July 29, 2021 School Board Meeting. *See* Item K. Board Member Reports/Discussion. https://brevardpublicschools.new.swagit.com/videos/257590.

7 Because I concur in judgment to find the ban on "abusive" speech facially invalid for allowing impermissible viewpoint discrimination, I do not reach whether the prohibition on "abusive" speech is void for vagueness or over-broad.

8 BPS, Mar. 23, 2021 School Board Meeting. *See* Item E (Part 2 of 2). Public Comment. Jefferson's remarks begin at approximately 13:23, https://brevardpublicschools.new.swagit.com/videos/03232021-1098.

9 BPS, Mar. 9, 2021 School Board Meeting. *See* Item E (Part 1 of 2). Public Comment. Lacoste's remarks begin at approximately 9:30, https://brevardpublicschools.new.swagit.com/videos/03092021-1009.

10 BPS, Mar. 9, 2021 School Board Meeting. *See* Item E (Part 2 of 2). Public Comment. The student's remarks begin at approximately 1:40:15, https://brevardpublicschools.new.swagit.com/videos/03092021-1009.

11 BPS, Sept. 21 2021 School Board Meeting. *See* Item E. Public Comment. Cholewa's remarks begin at approximately 1:05:02, https://brevardpublicschools.new.swagit.com/videos/09222021-781.

12 BPS, May 21 2021 School Board Meeting. *See* Item E6. Public Comment. Relevant comments begin at approximately 49:07, https://brevardpublicschools.new.swagit.com/videos/05212021-941.

13 BPS, July 29 2021 School Board Meeting. *See* Item E (Part 2 of 2). Public Comment. Jefferson's remarks begin at approximately 2:43, https://brevardpublicschools.new.swagit.com/videos/257590.

14 This ban on personally directed speech does not meet our circuit's standard for vagueness. *See Tracy v. Fla. Atl. Univ. Bd. of Trs.*, 980 F.3d 799, 807 (11th Cir. 2020). Individual speakers do not need to guess as to what speech is barred by the ban. Further, the restriction does not "cover[ ] substantially more speech than the First Amendment allows." *Speech First*, 32 F.4th at 1125. Therefore, it is not impermissibly overbroad.

15 BPS, July 29 2021 Regular/Tentative Budget Hearing Meetings. *See* Item K. Board Member Reports/Discussion Points. She speaks about the man at about 18:40, which leads to some disruption. Members of the audience begin yelling at Jenkins again at about 19:40. This commotion continued until Belford called for a brief recess. https://brevardpublicschools.new.swagit.com/videos/257590.

16 BPS, October 26, 2021 School Board Meeting. *See* Item E10. Public Comment. Beaver's remarks begin at approximately 47:48. She pivots about 50:02. https://brevardpublicschools.new.swagit.com/videos/257590.

17 I would refrain from labeling text in any schoolbooks "obscene." M4L and its members have made statements regarding the contents of books in BPS schools, but this case relates to speech at BPS meetings. This case does not involve books, and I would refrain from discussing the contents of books.

18 Because I concur in judgment to find the obscenity ban unconstitutional as applied, I do not reach the vagueness or overbreadth challenges to this portion of the policy raised by M4L.

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