

Executive Session Meeting Minutes regarding Paper 142-25
Review of OML Complaint Against Karen Colón Hayes Regarding Benevolent Botanicals
March 11, 2025

Paper 142-25 Order: The City Council will vote whether to go into Executive Session with Legal Counsel in accordance with Exemption One, Massachusetts General Laws Chapter 30A Section 21(a)(1), and Exemption Seven, Massachusetts General Laws Chapter 30A Section 21(a)(7), to comply with or act under the authority of any general or special law, specifically to comply with the provisions of Massachusetts General Laws Chapter 30A Section 23(b), to act on the pending Open Meeting Law Complaint filed by Jadeane Sica of 12 Cleveland Street on February 27, 2025 against the City Council related to the February 25, 2025 duly posted Executive Session on the matter of Benevolent Botanicals and 926 Eastern Avenue v. The City of Malden where such discussion in open meeting may have a detrimental effect on the litigation position of the City.
(Roll Call Required)

During the City Council meeting on March 11, 2025, a motion was made by Councillor Simonelli, seconded by Councillor Crowe to enter into Executive Session to address Paper 142-25, order was approved by an 8-2 roll call vote.

Yea- Crowe, Linehan, McDonald, Sica, Simonelli, Spadafora, Taylor, and Winslow

Nea- Colón Hayes, O'Malley

Absent- Condon

In attendance were Councillors Colón Hayes, Crowe, Linehan, McDonald, O'Malley, Sica, Simonelli, Spadafora, Taylor, and Winslow.

Absent was Condon

Also in attendance was City Clerk Carol Ann Desiderio and Assistant City Solicitor Zaheer Samee.

The meeting was called to order at 8:40 PM. The business as outlined below took place from 8:40 to approximately 9:25. The remaining 15 minutes of the meeting addressed Paper 143-25. Those meeting minutes are outlined in a separate document titled "143-25 Executive Session to Review Minutes for Release".

The meeting opened with Council President O'Malley giving a synopsis as to how the Body came to require a meeting to discuss an Open Meeting Law complaint. During the Executive Session (ES) of February 25, 2025 Councillor Sica brought to the Council's attention that Councillor Colón Hayes had posted on various social media platforms about a possible settlement agreement with Benevolent Botanicals (BB). Councillor Sica vacated the February 25th meeting after stating she was not comfortable going into ES if the agenda topics aren't remaining confidential. On February 27th, Councillor Sica filed an OML complaint with the City and the Council now must determine how they will respond and do so by March 19.

One option is for the Council to respond to the complaint on their own behalf. This option is allowable but not always ideal. The Council may instead opt to authorize the City Solicitor's Office to conduct an investigation and present a report that the Council will vote on whether or not to submit on their behalf to the complainant and Attorney General.

Councillor Simonelli expressed his deep feeling that each person in this room is one of eleven. He acknowledges that everybody makes mistakes, but this discussion is reflective of deeper

interpersonal relational struggles among the eleven. Councillor Simonelli wishes for the Body to be able to resolve these issues in-house. Breaking ES confidentiality is a serious matter but he doesn't wish to see anyone get in trouble.

Councillor Colón Hayes expressed gratitude for Councillor Simonelli's sentiment. She further expressed time spent in reflection since the last Executive Session meeting has made her come to the realization that she has not done anything improper. Despite having apologized for her actions during the meeting of February 25, 2025 Councillor Colón Hayes is now requesting the Solicitor's Office complete an investigation and issue a determination as to the legality of her actions as well as a guideline on what is and isn't allowed to be posted on social media.

Councillor Linehan first commented she is in agreement with Councillor Simonelli's sentiments. Then went on to say she was conflicted as to whether this conversation should have taken place in open session. It is important to do as much business as possible before the public but in this case, she is supportive of using this time provided to dive into difficult conversations so that everybody understands what was wrong. Colleagues reporting each other is not a good look for the Body but the law is in place for a reason. This opportunity allows the Council to receive guidance, document it, and come to a common understanding.

Councillor Winslow recognizes how difficult it is to keep work related issues confidential even from closest family members but as an attorney, the value of confidentiality was taught from the very beginning of school. This responsibility should be taken seriously and never be taken for granted. To do so is a breach of ethics. The reason Solicitor McNeil opens every ES discussion with a disclaimer speaking to confidentiality is precisely because the Council has as much responsibility to the City's business as does an attorney to their client.

Councillor McDonald broke down the situation into two different areas of concern: 1) whether commenting on social media is a violation of open meeting law and 2) is breaking confidentiality from ES a violation of the same? They are of the opinion that no violation of serial deliberation happened because a quorum of the Body did not see the social media posts in question. Councillors Spadafora and Linehan countered that argument with what they had been taught in past OML trainings, that it doesn't matter if enough people had seen it, but rather the potential was there that a quorum could have. This is similar to the way the Body has been trained never to 'reply all' to any email notification. A potential for serial deliberation exists when information is shared in a manner that could be seen by the entire Body.

To their second point, Councillor McDonald does believe there was a breach of confidentiality, which did damage the City's negotiating position of the case. Considering both these points together, they see this as very concerning issue but not necessarily an OML violation.

Councillor Sica expressed her opinion that there is no excuse not to uphold the oath that is taken as an elected official. She does believe this to be a violation of OML because the law states, "The open meeting law defines deliberation as an oral or written communication through any medium.... Note that the expression of an opinion on matters within the Body's jurisdiction to a quorum to a public body is a deliberation, even if no other body member responds to it." This complaint isn't about Councillor Colón Hayes posting meeting agendas to social media as an alert to the public, as she has claimed. This complaint is about posting details of ES meeting discussions and her position that she plans to vote to settle the lawsuit as well as inviting members of the public to enter into an online

conversation about the matter. Any member of the public who has been paying attention to the Benevolent Botanicals case and saw Councillor Colón Hayes' online posts could have correctly assumed the Body was convening in ES to discuss a settlement offer.

Councillors Colón Hayes and Sica vigorously debated the merits of their own competing arguments, but the one thing they agreed on is that they both are supportive of having a thorough investigation into the complaint with a legal opinion of whether any violation exists.

A motion was made by Councillor Colón Hayes, seconded by Councillor Sica that the Solicitor's Office will complete an investigation of the complaint and report findings back to the Council. Motion passed by a 10-0 roll call vote.

Yea- Colón Hayes, Crowe, Linehan, McDonald, O'Malley, Sica, Simonelli, Spadafora, Taylor, and Winslow
Nea- Zero
Absent- Condon

Clerk Desiderio notified the Council that 14 business days from when the complaint was filed is March 19, which does not give Attorney Samee much time to complete his investigation. As the complainant, Councillor Sica agreed to extend the deadline to April to receive a response.

A motion was made by Councillor McDonald, seconded by Councillor Crowe to exit Executive Session and adjourn the Council, motion passed by a 10-0 roll call vote.

Yea- Colón Hayes, Crowe, Linehan, McDonald, O'Malley, Sica, Simonelli, Spadafora, Taylor, and Winslow
Nea- Zero
Absent- Condon
Executive Session was adjourned at 9:40 PM.
Minutes compiled by City Clerk Carol Ann Desiderio

At a duly posted Executive Session on February 10, 2026, a motion was made by Councillor O'Malley, seconded by Councillor Taylor to approve the above meeting minutes, motion passed by an 11-0 roll call vote.

Yea- Colón Hayes, Condon, Crowe, Linehan, Luong, McDonald, O'Malley, Sica, Simonelli, Taylor, and Winslow
Nea- zero
Absent- zero

At a duly posted Executive Session on February 10, 2026, a motion was made by Councillor Sica, seconded by Councillor Simonelli, to retain the above noted minutes in continued non-disclosure until the City Solicitor has determined the time frame for the appeal process has been exhausted, motion passed by a 10-1 roll call vote.

Yea- Colón Hayes, Condon, Crowe, Linehan, Luong, McDonald, Sica, Simonelli, Taylor, and Winslow
Nea- O'Malley
Absent- Zero

Minutes released from non-disclosure March 11, 2026.

