

Executive Session Meeting Minutes regarding Paper 365-25
Tufts Construction, Inc. v. City of Malden
September 30, 2025

Paper 365-25 Order: That the City Council will vote whether to go into Executive Session with legal counsel for the City regarding the matter of Tufts Construction, Inc., v. The City of Malden for the purpose of Exemption Three Massachusetts General Laws Chapter 30A Section 21(a)(3) to discuss strategy with respect to litigation, where such discussion in open meeting may have a detrimental effect on the litigation position of the City, if so declared by the chair.

And if so allowed by the Body, to admit Maria Luise, Special Assistant to the Mayor.
(Roll Call Required)

During the City Council meeting on September 30, 2025, a motion was made by Councillor Sica, seconded by Councillor Crowe to enter into Executive Session to address Paper 365-25. Order was approved by a 9-1 roll call vote.

Yea- Colón Hayes, Condon, Crowe, Linehan, McDonald, Sica, Spadafora, Taylor, and Winslow

Nea- O'Malley

Absent- Simonelli

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

Absent was Councillor Simonelli

Also in attendance was City Clerk Carol Ann Desiderio, City Solicitor Alicia McNeil, Assistant City Solicitors Mark Rumley and Zaheer Samee, Special Assistant to the Mayor Maria Luise, Clerk of Committees Lisa Cagno.

The meeting was called to order at 8:56 PM. Councillor O'Malley asked to be reflected as present in the attendance but also stated he wished to recuse himself from the meeting. He gave no reason or conflict of interest justification for wishing to be recused. Councillor O'Malley was asked to vacate the meeting room, to which he refused. He was told that he cannot be both present and recused at the same time. Again, he refused to leave or offer any reasoning. President Linehan asked to have this conflict reflected in the meeting minutes. Councillor O'Malley spent the rest of the meeting sitting in the corner taking notes.

Assistant City Solicitor Rumley advised the room that all members, under any and all conditions, are still obligated to adhere to the rules of Executive Session regarding confidentiality. Additionally, City Solicitor Alicia McNeil reminded all parties present that Executive Session (ES) must remain in confidence only between the parties who are in attendance. What is discussed in this session may not be shared with staff, spouse, or anybody for that matter.

There were no questions or comments posed pertaining to the laws of ES so Attorney McNeil proceeded.

The purpose of this evening's Executive Session is to discuss the packets of information that were anonymously sent to every Councillor regarding the lawsuit with Tufts Construction, Inc. Solicitor McNeil is concerned there are pieces of information included in these packets for which the

Councillors may require some understanding or context. As Mark Rumley is the lead attorney assigned to this case, he was asked to participate in this meeting.

It is the belief of the Solicitor's Office that the delivery of these packets borders on a violation of professional conduct. Further, deliveries made to the Council anonymously should not have been delivered to the members. If a member of the public wishes to bring an issue of city business to the attention of their elected representatives that constituent should make themselves known to the person they are addressing. Upon investigation, the City Solicitor's Office has determined who was responsible for the anonymous delivery. Those people are aware the City Council has the ability to make decisions regarding financial matters. It is the opinion of the legal team the objective of the delivery was to influence the actions of the deliberating body.

The background is this case was brought against the City of Malden and, specifically, City Engineer Yem Lip approximately four years ago by Tufts Construction, Inc. and personally by Peter Tufts, the company's President. Breach of contract, bad faith in contract, interference in advantageous business relationships and defamation are the complaints being made by Tufts. All of the intentional claims against the City of Malden were dismissed a couple years ago except breach of contract and interference in contractual relationships. The contract held with the city pertaining to this case is the 2018 W1 contract, on which Tufts had almost reached completion, and the 2019 W1 contract, which Tufts did not begin. A W1 contract has to do with water infrastructure in the streets.

A third-party corporation called Engineer Lip for a referral on Tufts Construction. Lip responded the company is typically on time and does good work, but Malden had difficulty with too many change orders and the rising contract price. Further Lip indicated Peter Tufts can be a hot head, which is the basis of the defamation claim. In September 2021, Malden terminated the 2018 W1 contract because Tufts had not done any work on it in quite some time. This letter of termination was sent by City Solicitor Fallon to Tufts Construction and to the company that held the bond on said contract. Tufts alleges he was unable to get bonding for contracts in any other city or town due to this contract termination. During the trial, it was discovered Tufts did in fact receive subsequent bonds.

Malden's legal team wanted to have entered into evidence that Peter Tufts was a convicted felon, dating back to October 2024 wherein he was convicted in United States District Court of both tax and mortgage fraud. After some pre-trial debate, Judge Hornstein ruled that the conviction would be allowed to be entered into evidence.

During cross examination of former Malden employee Glen Calla, who has a personal relationship with Peter Tufts, Attorney Zaheer Samee asked if Mr. Calla was aware a subpoena had been served by the United States Attorney on the City of Malden relative to Tufts Construction/Peter Tufts. The judge found the question not worded the particular way he had wanted it and did not allow the question. A couple days later, Attorney Rumley had Peter Tufts on cross examination and entered into evidence the information about Tufts' conviction on federal charges back in October 2024. In the second week of the trial, Yem Lip was on the stand being questioned by Attorney Samee.

At this point, there are three incidents Attorney Rumley wanted the Council to be made aware of before proceeding with what happened next during the trial:

1. Incident on Bainbridge Street at a Tufts Construction work site. Peter Tufts was yelling, using blue language with his crew in the open even as children are on their way to school. The officer providing the police detail asked Mr. Tufts to calm down the language: Mr. Tufts rejected that request in no uncertain terms. Again, the officer asked Mr. Tufts to calm down and filed a report on the incident.
2. A second incident on Main Street at a Tufts Construction work site involving a gas and a water leak. Mr. Tufts got into an argument with a resident. The officer providing the police detail intervened and again Mr. Tufts refused to listen. The situation escalated to the point of the officer putting Mr. Tufts in handcuffs. Given this situation unfolded at the time when National Grid employees were locked out during a labor dispute, and there was a gas leak in the neighborhood, the officer used his discretion to eventually let Mr. Tufts out of the handcuffs so he could attend to the work site. There is a police notation that a call was made to the station but there is no formal police report regarding this incident.
3. There was another incident mentioned when Mr. Tufts had a run in with the police on Kenmore Road. The specific details of which were not outlined during this executive session.

During the examination of Yem Lip by Attorney Samee, the questioning got very heated with several objections and interruptions by opposing council to Attorney Samee's line of questioning. In the heat of the moment there was confusion in the courtroom between all the differing accounts of Mr. Tufts' run-ins with the law. In the confusion the courtroom erupted, opposing council asked for a mistrial and the judge began questioning Attorney Samee. Judge did not issue an immediate mistrial but did say he would hear arguments in the morning and encouraged both sides to discuss settlement. The judge went as far as to offer his services as a mediator to this end. Malden agreed but Tufts' lawyers responded by saying they would respond to that offer at a later date. The next trial date is October 27, so there isn't a lot of time for them to decide if they wish to go into mediation.

Attorney Rumley contacted opposing council to ask for their settlement number. Opposing council was happy with the way the case was heading and did not want to settle; their number went from \$750,000 to \$1.5m. Despite being happy with the way the case was going, the next morning (August 6) opposing council argued for and was granted a mistrial, the judge calling Attorney Samee's line of questioning, serious misconduct. Afterwards opposing council filed motions for attorney fees in the amount of over \$200,000. Malden filed an objection, but Judge Hornstein ultimately allowed the motion in part. \$500 an hour per attorney for the court time hours totaling \$32,000.

It was also noted that after the mistrial was ruled, opposing counsel attempted to pull back the request; this wasn't allowed as the judge had already made his ruling. Tufts' legal team had alternative requests in their mistrial motion, one of which was an instruction to the jury that Malden was acting in bad faith. It became clear they were looking mostly to discredit Malden's legal team as opposed to actually achieving a mistrial, as now both sides must begin the entire process again.

The discussion then redirected back to the packets of information that were anonymously sent to every Councillor. Attorney Rumley had reached out to each Councillor to inquire if there was any contact made with anyone on this Council by the other party in this case. The opposing party making contact with those who are represented by legal council creates difficulties, especially if that

contact was made by an opposing attorney. The suspicion is that these packets were sent to attempt to influence the position of the city to raise the price of settlement on this case. The person who hand delivered the packets refused to identify themselves and told the constituent representative on the fourth floor the Council had requested the enclosed information. A claim denied by every Councillor when asked if they had made such a request.

Attorney Rumley went on to explain the details of a billing dispute between Tufts Construction and the City regarding rock removal on Webber Street, that is relevant to this case. Rock/ledge is excavated and removed at \$200/cu yd for loads over three cubic yards. Trench is billed at \$25/cu yd. Tufts billed Malden for almost the whole job being rock or ledge. The Engineering Department, who was supervising the job, stated much of what was billed for rock was actually trench. The difference in price was almost \$150,000.

Councillor Winslow inquired if a vote of the Council would be required to pay out the \$32,000 as ordered by Judge Hornstein. For now, there are no decisions being made on paying this out until after the appeal process has been exhausted.

Councillor Sica thanked the legal team for bringing this update to the Body, stating there is so much disinformation online about this case, it is good to have an accurate accounting of the situation. Attorney Rumley reminded the room that online commenting is often done in speculation by people who are not privy to all the facts. It is the responsible thing to do for parties connected to the case to withhold public comments.

Councillor Sica went on to say that she did receive phone calls from people involved with this case asking her for intervention. Councillor Sica stated that those phone calls were immediately reported to the Solicitor's Office. She further opined that if opposing counsel was so confident with their case, why would they be seeking relief from the City Council?

A motion was made by Councillor Crowe, seconded by Councillor Spadafora to exit Executive Session and adjourn the Council, motion passed by a 9-0 roll call vote, with Councillor O'Malley not voting.

Yea- Colón Hayes, Condon, Crowe, Linehan, McDonald, Sica, Spadafora, Taylor, and Winslow
Nea- Zero

Absent- Simonelli

Executive Session was adjourned at 9:53 PM.

Minutes compiled by City Clerk Carol Ann Desiderio

At a duly posted Executive Session on February 3, 2026, a motion was made by Councillor Sica, seconded by Councillor O'Malley to approve and release the September 30, 2025 minutes whole and unredacted upon the court's acceptance of the settlement agreement between Tufts Construction and City of Malden. The motion passed by a unanimous roll call vote.

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

Nea- Zero

Absent- Zero

Minutes released from non-disclosure March 11, 2026.