

Executive Session Meeting Minutes regarding Paper 102-26
Review of Minutes Benevolent Botanicals et al v. City of Malden
February 10, 2026

Paper 102-26 Order: That the City Council will vote whether to go into Executive Session with legal counsel for the City, in accordance with 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 or federal grant-in-aid requirements, in order to act on the periodic review of those Executive Session minutes listed herein to determine if release of records is appropriate at this time or if continued non-disclosure is warranted.

Council vote is required prior to release of the Executive Session minutes of the following dates:

- April 29, 2025, Paper 222-25
- March 11, 2025, Paper 142-25
- March 4, 2025, Paper 117-25
- February 25, 2025, Paper 116-25
- February 11, 2025, Paper 83-25
- February 4, 2025, Paper 61-25
- September 26, 2023, Paper 335-23
- September 12, 2023, Paper 316-23
- October 25, 2022, Paper 425-22

(Roll Call Required)

During the City Council meeting on February 10, 2026, a motion was made by Councillor Taylor, seconded by Councillor Simonelli to enter into Executive Session to address Paper 102-26. Order was approved 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

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

Also in attendance was City Solicitor Alicia McNeil, Clerk of Committees Lisa Cagno, and City Clerk Carol Ann Desiderio.

The meeting was called to order at 7:42 PM.

Prior to this evening's meeting seven of the nine sets of minutes, as indicated above, were approved to be finalized. The minutes from March 11, 2025 Paper 142-25, and April 29, 2025 Paper 222-25, are still in draft form.

A motion was made by Councillor O'Malley, seconded by Councillor Taylor to approve the meeting minutes, motion passed by a 11-0 roll call vote.

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

Nea- Zero

Absent- Zero

This evening's review was initiated by an Open Meeting Law request made by Brian DeLacey of 1 Earl Street, Malden. Discussion on this request was somewhat limited. Councillor Winslow noted that unless and until the Body knows if the City will appeal Judge Rubin's decision, they are unable to vote on whether to release the sets of ES minutes on the case.

Judge Rubin issued a decision in the case of Benevolent Botanicals et al v. City of Malden but the appeal process has not yet been decided or acted upon. The city has 30 days to file notice of intent to appeal. Up until the decision of whether or not to appeal is made, or the appeal period expires, attorney-client privilege remains intact. For these reasons, release of records would defeat the lawful purpose of the stated Executive Session.

City Solicitor Alicia McNeil informed the Body she has reviewed all nine sets of minutes and does not find any legal justification for any redactions, although at this time she is also not advocating releasing the records per the above noted concern.

Answering Councillor Winslow's question, Solicitor McNeil explained that if the city misses the 30-day window to file the notice of appeal, then they have no recourse for future action. She would like to file that notice as a place holder with the court and to afford her a proper amount of time to carefully review the 63-page decision. After such review, Solicitor McNeil will provide the Council with a written memo outlining any issues. Only after that time, would it be appropriate to release the minutes. Councillor Winslow asked for, and received, confirmation that Solicitor McNeil found no evidence in these nine sets of minutes that would betray legal strategy in future cases.

Councillor O'Malley, echoing a previous request by Councillor Colón Hayes, asked if the Body could post a separate order for Executive Session to discuss the court ruling and options for moving forward. Council President Linehan agreed there is a need for such a meeting, but the Legal Department needs time to pull all the information together, not just in regard to the court's 63-page decision but also what the ruling will mean for marijuana zoning in the city. Councillor O'Malley asked for this to be done sooner than later but Councillor Sica interjected it is premature to hold an Executive Session right away until all options for appeal may be considered. With that, the topic of conversation changed to avoid discussion on a matter that wasn't docketed for this session.

Councillor Colón Hayes reminded the City Clerk to include proper language in the response to Mr. DeLacey to indicate release of records would be pending court deadlines. Councillor McDonald inquired if it would be appropriate to make a motion for a standing order giving Council President authority to refuse release of minutes on any active litigation without the entire Body having to convene. Solicitor McNeil and Clerk Desiderio questioned if that is allowable per M.G.L. c. 30A, s. 22(g)(2). Solicitor McNeil stated she would research for clarification. At the March 11, 2025 Executive Session convened for this same exact request, a roll call vote of 10-0 empowered the Council President to reject any future requests made by Mr. DeLacey for release of Benevolent Botanicals ES minutes until the City Solicitor has determined the case is closed and the appeal process has been exhausted. This evening's situation is slightly different in that the case has been closed but the appeal is still pending, and there are two additional sets of minutes since that meeting was held.

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

A motion was made by Councillor McDonald, seconded by Councillor Sica to exit Executive Session and adjourn the Council, 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

Executive Session was adjourned at 8:04 PM.

Minutes compiled by City Clerk Carol Ann Desiderio

At a duly posted Executive Session on February 17, 2026, a motion was made by Councillor O'Malley, seconded by Councillor Colón Hayes 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

March 3, 2026 Communication from Council President Linehan: On February 19, 2026 a request was made by Bruce Friedman for the regular and executive session meeting minutes from the Malden City Council for the dates of February 10 and 17, 2026. Regular session minutes may be found in the Agenda Center of the City's website. In accordance with M.G. L. c. 30A, s. 22 (g) the public body's chair has conducted a review of the Executive Session minutes and has made the determination that those minutes from February 10 and 17 shall be approved and released in accordance with the completion of post-judgment actions on each of the respective court cases which were discussed during these sessions.

Minutes released from non-disclosure March 11, 2026.