

Executive Session Meeting Minutes regarding Paper 89-23
Guillaume v. Malden Police Department
February 28, 2023

Order: That the City Council meet with legal counsel in executive session in regard to Guillaume v. Malden Police Department, et al., under Massachusetts General Laws Chapter 30A Section 21(a)(3) to discuss strategy with respect to litigation, as such discussion in open meeting would have a detrimental effect on the City's litigating position, and to admit Maria Luise, Special Assistant to the Mayor. (Roll Call Required)

During the Council Meeting of February 28, 2023, a motion was made by Councillor O'Malley, seconded by Councillor Colon-Hayes, to enter into executive session, order was approved by a roll call vote of 8-0. Colon-Hayes (y), Condon (absent), Crowe (y), Linehan (y), McDonald (y), O'Malley (y), Sica (y), Simonelli (absent), Spadafora (y), Winslow (y), Murphy (absent).

Councillor Spadafora attended the Council meeting via Zoom and so was in attendance for this vote but did not participate in the executive session.

In attendance at executive session were Councillors Colon-Hayes, Crowe, Linehan, McDonald, O'Malley, Sica, and Winslow. Absent were Councillors Condon, Simonelli, Spadafora, and Murphy. Also in attendance were City Clerk Carol Ann T. Desiderio, Clerk of Committees Lisa Cagno, and Assistant City Solicitor Alicia McNeil.

The meeting opened with Assistant City Solicitor Alicia McNeil giving a brief background on this case, which dates to October 2018. This is a case where the City of Malden is being sued for civil rights violations. Officers were originally called to the house because a tenant who was renting space in the living room had been locked out of the house by the landlord and had needed to get inside to obtain her baby's food, clothes, etc. Officers called the homeowner, blew their car horn, flashed lights for approximately thirty minutes to no avail. One of the officers went in through the window and opened the door for the others to gain entry. At this point they looked around, knocking on doors and did find the homeowner who came out of a room very upset. The homeowner was flailing her arms and ended up hitting one of the officers, eventually being restrained and arrested, charged with assault and battery on a police officer. The tenant obtained a restraining order against the homeowner at which time the homeowner threatened the tenant and the tenant's mother. The homeowner was arrested for violating the restraining order.

It terms of this evening's update; Attorney McNeil stated this case was filed in Federal Court. The City's Solicitor's Office is representing the city, there are two law firms that represent the five other officers involved in this case. Assistant Solicitor McNeil stated it was her recollection that the previous City Solicitor, Kate Fallon, was allotted \$50,000 by the Council in which to settle the case. There was a pretrial conference held wherein all the parties agreed to enter mediation, which is overseen by a federal magistrate judge. That mediation happened in February of this year. This original demand in this case was for \$3 million, eventually dropped to \$200,000, then to \$130,000 at which time the city made an offer of \$25,000. The judge magistrate stated he did not see this mediation as being able to settle. Mediation was stopped and the city is now scheduled to file for summary judgement. Motions for summary judgment are to be filed by the end of March with a hearing possibly by June. Only after that will we know if the city is dismissed from the case or if it will be going to trial.

Attorney McNeil gave further report that the plaintiff in this case was not injured, nor did she miss any work time, so she isn't quite sure how the original demand for \$3 million was determined.

Councillor O'Malley asked if it would be fruitful to offer more than \$25,000, getting closer to the \$50,000 originally allotted or if the city went to trial could it come in with a less than \$25,000 judgement? Assistant City Solicitor McNeil was hesitant to predict what could happen with a federal jury. The count against the city is failure to train but there is no evidence of that so she is confident during summary judgment the city will be dismissed out of the case. Despite that, Malden must indemnify the officers and will still be responsible for paying for the officer's lawyers. Councillor O'Malley asked how much we have spent on outside counsel. So far, it is approximately \$27,000. Councillor Winslow pointed out, this number is expected to grow because even if the city is dismissed from the case, the other two lawyers are still working on the charges against the officers involved. Additionally, if this case goes to trial and there is a judgement against the city, that will also have to be paid out.

Councillor McDonald asked for clarity on the homeowner's contention in the case. Her accusations are that police improperly entered her house, did not have a warrant, they violated her civil rights by entering her house and arresting her, and that the city failed to properly train the officers. Councillor Winslow challenged that the tenant was present and had the right to authorize the police to enter the house on her behalf; Attorney McNeil agreed and stated that is most likely what the officer's lawyers are arguing.

As this meeting was simply an update for the benefit of the Council, there were no new questions in need of vote. With the close of discussion, a motion was made by Councillor O'Malley, seconded by Councillor Sica to exit executive session, motion passed by a roll call vote of 7-0.

Colon-Hayes (y), Condon (absent), Crowe (y), Linehan (y), McDonald (y), O'Malley (y), Sica (y), Simonelli (absent), Spadafora (absent), Winslow (y), Murphy (absent). Meeting was adjourned at 9:18 PM.

Minutes compiled by City Clerk Carol Ann Desiderio.

Pursuant to M.G.L. c. 30A, s. 22(g)(1), and with the approval of Council President Winslow and City Solicitor McNeil, on August 26, 2024 eleven members of the Malden City Council were offered a one month period of time to review fourteen sets of executive session minutes dating back to April 2021 in the privacy of the City Clerk's Office. It was explained that any questions or amendments may be submitted to the City Clerk and a date would be set to meet in Executive Session for further discussion. Otherwise, if there were no objections, on behalf of the Body, Council President Winslow would be tasked with the approval of said minutes.

After the one-month review period had expired, on September 29, 2024, Council President Winslow authorized the approval of all draft executive session minutes. Among those fourteen drafts, this set was included.

Approval process organized and overseen by City Clerk Carol Ann Desiderio.

Pursuant to M.G.L. c. 30A, s. 22(g)(1), and with the approval of Council President Linehan and City Solicitor McNeil, a periodic review of fifteen sets of Executive Session minutes was completed to determine if a number of minutes warranted continued non-disclosure. As of April 9, 2026 Council President Linehan, under the advice of counsel from Solicitor McNeil, has now ordered the City Clerk to release the executive session minutes from the meetings of 4/20/2021, 3/8/2022, **2/28/2023**, 4/30/2024, 6/25/2024, 7/24/2024, and 3/11/2025.

Approval process organized and overseen by City Clerk Carol Ann Desiderio.