

# MCEA

MODESTO CITY EMPLOYEES ASSOCIATION

## newsletter



NOVEMBER 2007

MODESTO CITY  
EMPLOYEES ASSOCIATION

PO BOX 4207  
Modesto, CA 95353

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### PRESIDENTS MESSAGE

I write to you as President of Modesto City Employees Association to say thank you. Thank you for all your hard work and continued professionalism, even while we are working without a contract. Negotiations have not been easy. Since April 30, 2007, it seemed as if the only people truly negotiating were sitting on MCEA's side of the table.

Management negotiators sat stone faced and unyieldingly at 2.5% Across the Board (ATB) raise until after July 23, 2007 when our contract expired. The City returned to offer MCEA a 3% ATB, **without Retroactive pay**, as their last best and final. At the insistence of management and at high cost to our association, MCEA took the contract to an official vote of our membership, once again proving our efforts to work with Management. MCEA then provided the City Management with the tally. Most of you know the City's offer was overwhelmingly rejected. 241 rejecting – 50 accepting.

MCEA Negotiators countered with our own last, best and final offer. MCEA asked for: 3% Cost of Living increase/ATB **Retroactive**; increases to health coverage contributions by the City **Retroactive**; and a \$300.00 signing bonus, per MCEA member. Management negotiators didn't take our last, best and final to the Council in open session, nor did MCEA receive an official tally.

Management negotiators opted to go before council in "Closed Session" and merely reported to MCEA that council rejected MCEA's offer. Management negotiators then declared "impasse" and requested MCEA to agree to mediation.

MCEA has agreed to go to mediation, but requested the City to agree to binding mediation. Mediation is when a nonbiased third party works with both sides to arrive at fair and equitable solution.

MCEA was told by Barbara Santos, Deputy Director of Personnel, the City Council will not agree to binding mediations, because the City Council doesn't wish to allow a third party to control the taxpayer's money. I was then told the Council does have binding mediation with the Police and Fire Departments.

City Management now claims to be in a budget crisis, not only affecting the general fund, but also the enterprise funds. Until this time, MCEA's understanding of the budget and City financial issues has come directly from City Management. MCEA is contracting an accounting firm to review the City's books. This is an attempt to verify the information provided to MCEA by City Management.

I would like to thank all MCEA members for your efforts. Managers received 5.5%, now it is time for our hard work to be recognized and rewarded with better pay and fair negotiations, not buttons and cookies.

MCEA  
MODESTO CITY EMPLOYEES ASSOCIATION

in association with



## Annual Christmas Toy Drive

Let's join together this holiday season and help support MCEA as we reach out and lend a helping hand in our community. Donation barrels will be located throughout the city. Last years drive gave over 4,000 kids, 5 toys each. Let's help exceed last years contributions. If you would like a barrel or know a business owner that would display one please call 209.595.2046



**MCEA PRESS RELEASE  
OCTOBER 15<sup>TH</sup>, 2007**

**STATE BOARD CHARGES CITY  
OF MODESTO WITH UNFAIR  
LABOR PRACTICES**

A state labor board has issued three separate complaints against the City of Modesto, saying there is enough evidence to allow union charges that city officials committed unfair labor practices to move forward. The complaints issued by the Public Employment Relations Board accuse the city of committing twenty separate violations of state laws protecting employees and labor organizations between December 2006 and May 2007. All of the alleged violations affect members of the Modesto City Employees Association.

The first complaint issued on June 8, and asserts city officials failed to complete an investigation into a hostile work environment complaint made in January after the complaining employee requested union representation during the investigation. The June 8 PERB complaint also states city officials interfered with union rights and twice refused to allow an employee to have union representation present during disciplinary meetings in April.

The second complaint issued on June 29, follows the city's notice to MCEA's president Tom McCarthy of his 10-day suspension. The suspension notice accuses McCarthy of "excess involvement" in union meetings with city management. The 5-page PERB complaint asserts city management interfered with the union's representation of its members, unilaterally changed city policy without giving advance notice to the union, did not confer with union leaders in good faith regarding employment terms, and discriminated against McCarthy by issuing the suspension notice in retaliation for his activities as the union's president beginning in January 2006.

The third complaint issued on August 28, and contends city officials interfered with the union's rights and disciplined an employee more severely for challenging the charges against him through a negotiated arbitration procedure. City officials identified by name in the complaints are Nicholas Pinhey, Janice Stewart, Dan Wilkowsky, Kay Maksoud, and Tony Souza.

The two sides met unsuccessfully in August and again in September at the PERB headquarters in Sacramento to try to settle the three cases.

The city denies any wrongdoing in all twenty of the claimed violations.

The complaints are not sanctions, but rather are lists of allegations the union must prove to win sanctions against the city. Proof of the allegations and imposition of sanctions, if any, will be decided through several days of hearing before an administrative law judge at the PERB early next year. MCEA is represented in the PERB complaints by Sacramento employment attorney Joe Rose.

MCEA is the city's largest labor organization representing about 440 city workers. MCEA workers have been working without a contract since late-July. On October 10, the city declared both sides to be at an impasse in contract negotiations. This is the second time in as many years the two sides have failed to reach agreement on a labor contract. In 2005, the city imposed a two-year "implementation document" after wage and benefit talks broke down.

**COMING EARLY 2008  
MCEA Training Sessions for  
all Job Stewards &  
Directors.**

**WEINGARTEN RIGHT TO  
REPRESENTATION**

If you are interrogated or interviewed by a supervisor or management and reasonably fear it may result in discipline against you.

**READ THIS STATEMENT:**

"If this discussion could in any way lead to my being disciplined, fired, or cause an adverse effect on my employment I respectfully request my union representative be present during our meeting."

Under these circumstances

1. You have the right to have a representative present with you during the meeting, but you must ask for one.
2. The meeting must be postponed a reasonable time to allow your representative to be present.
3. Threatening reprisal for requesting a representative and refusing to allow your representative to be present are unfair labor practices.

**- COMING SOON -**

**City of Modesto  
Health Care Reimbursement  
Flexible Spending Account**

These accounts allow you to pay for medical care expenses not covered by your insurance plan using pre-tax dollars.

The Internal Revenue Service defines medical care expenses as amounts paid for the diagnosis, cure, or treatment of a disease, and for treatments affecting any part or function of the body. The expenses must be primarily to alleviate a physical or mental defect or illness, and be adequately substantiated by a medical practitioner. More information coming soon. Visit: [mcea1.org](http://mcea1.org)



**If you have any suggestions on what you would like to see in our next newsletter please, let us know.**

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**"Where the Rumor Weed Grows"**

**Rumor:** MCEA walked out of a meeting. This is why we don't have a contract.

**Truth:** MCEA hasn't walked out of any Coalition meetings, or negotiations meeting.

**Rumor:** MCEA is going to strike.

**Truth:** MCEA's Directors are not planning to strike.

**Rumor:** Members cannot call MCEA's Directors and Executives, to ask about rumors.

**Truth:** You may call MCEA President Tom McCarthy at (209) 342-8107 to ask about rumors. Or contact your MCEA Director. Voicemails and E-mails should be answered as quickly as possible.



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