

**City Council Chambers
29844 Haun Road
Menifee, CA 92586**

**Bill Zimmerman, Mayor
Bob Karwin, District 1
Ricky Estrada, District 2
Lesa Sobek, District 3
Dean Deines, District 4**



AGENDA

**Menifee City Council
Regular Meeting Agenda**

**Wednesday, May 15, 2024
6:00 PM Regular Meeting**

**Armando G. Villa, City Manager
Jeffrey T. Melching, City Attorney
Stephanie Roseen, Acting Clerk**

10.5 Ratification and Retroactive Approval of Benefits Provided to Police Employees and City Employees

RECOMMENDED ACTION

1. Adopt a resolution ratifying and retroactively approving provision of paid holidays and stipends to City of Menifee Employees.



CITY OF MENIFEE

SUBJECT: Ratification and Retroactive Approval of Benefits Provided to Police Employees and City Employees

MEETING DATE: May 15, 2024

TO: Mayor and City Council

PREPARED BY: Jeffrey Melching, City Attorney

APPROVED BY: Armando G. Villa, City Manager

RECOMMENDED ACTION

1. Adopt a resolution ratifying and retroactively approving provision of paid holidays and stipends to City of Menifee Employees.

DISCUSSION

In the middle of 2022, the three City employee unions negotiated new Memorandums of Understanding (MOUs) which provided for the full week off between Christmas 2022 and New Years Day 2023 (and future years covered by the MOUs). That benefit mirrored the additional days off that were provided, without MOU amendments, between Christmas 2021 and New Years Day 2022. The MOUs were negotiated during the COVID and post-COVID periods, when stress on City staff members was very high, employee morale was suffering, and the City was experiencing and anticipating more employee retention problems. Given the low community demand for services during the final week of the year, the City Manager believed, and the City Council agreed, that this morale-boosting benefit could be provided with minimal impact to the City's services to the community. To partially offset the additional holidays at the end of the year, the City employee unions agreed in the MOUs to forego Columbus Day as a holiday.

Those same amended MOUs also provided for the payment of a one-time \$2,500 per employee stipend to city employees (as opposed to police employees). The stipend was provided in lieu of an ongoing salary increase, and in recognition of the significant cost of living and Consumer Price Index increases during that period.

When these benefits were provided to the City employees, it was understood and expected that similar benefits would be provided to Menifee Police Department employees. But because the Police Department employees were in the middle of their existing MOU terms (which run from 2021-2024), the additional holiday time off and \$2,500 stipend should have been the subject a formal meet and confer process followed by approval of the arrangement in an open session meeting of the City Council. That process was unfortunately not followed. Rather, the City Manager's Office at the time authorized the additional time off (in addition to the Columbus Day holiday in 2022) and stipends for Police Department employees under the good faith and honest,

but incorrect, belief that those benefits could be provided under the authority of the City Manager. Although there is no doubt that the Police Department employees would have accepted the additional benefits, and the City Council would have approved the additional benefits, the formal procedural steps “fell through the cracks” and the benefits were provided without obtaining the necessary approvals. Notably, the City Council extended the holiday closure benefit to the Menifee Miscellaneous Police Employee’s Association through the approval of a side letter agreement on December 6, 2023.

A separate error in failing to secure approval of employee benefits was made for City (non-police) employees. Specifically, in addition to receiving the week between Christmas 2022 and New Years Day 2023 off, the City Manager’s Office, at the time, also authorized December 23, 2022 (the Friday before Christmas) as a holiday. When a holiday such as Christmas Eve falls on a Saturday, the City typically “recognizes that holiday” on the preceding Friday. But, overlooked by the City Manager’s Office, the City employees negotiated for a different outcome in 2022. The City employees’ MOUs provided that the Christmas Eve holiday was “rolled forward” into the subsequent week in order to facilitate the full week off between Christmas 2022 and New Years Day 2023. The City Manager’s Office at the time overlooked that factor and mistakenly gave December 23, 2022 as a holiday for City (non-police) employees.

The individual members of the City Council were aware that City Hall would be closed on December 23, 2022, and that City (non-police) employees would receive paid time off for that day. There is also no question that members of the City Council would have approved modifications to the City employees’ MOUs to memorialize that benefit, if that modification had been presented to the City Council for open session approval. Unfortunately, as a result of good faith errors, the documentation was not prepared and presented to the City Council for open session approval.

Each of these errors was made in good faith. The City Manager’s Office believed the City Manager had the authorization(s) necessary to provide the benefits, and that its actions were fully consistent with City Council expectations. Nevertheless, the items should have been brought forward for formal City Council approval.

By adopting the attached resolution, the City Council ratifies and retroactively approves each of those past decisions, and acknowledges that those decisions resulted in no net loss of funds to the City because they all would have been approved by the City Council had they been properly presented prior to the expenditures.

STRATEGIC PLAN OBJECTIVE

Regular City Business

FISCAL IMPACT

None. This action ratifies expenditures that were made in prior fiscal years.

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Employees
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ATTACHMENTS

1. Resolution

RESOLUTION NO. 24-___

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENIFEE,
CALIFORNIA RATIFYING AND RETROACTIVELY APPROVING
BENEFITS PROVIDED TO POLICE DEPARTMENT EMPLOYEES AND
CITY EMPLOYEES**

WHEREAS, in the middle of 2022, the three City employee unions – the Meniffee City Employees' Association General Unit, Special Unit, and Mid-Management Unit – negotiated new Memorandums of Understanding (“MCEA MOUs”) which provided for the full week off between Christmas 2022 and New Years Day 2023 (which time off would also apply in future years covered by the MCEA MOUs); and

WHEREAS, the holiday closures in the MCEA MOUs generally mirrored additional days off that were provided on a one-time basis, without MOU amendments, between Christmas 2021 and New Years Day 2022; and

WHEREAS, the additional holiday closures were provided and negotiated during the COVID and post-COVID periods, when stress on City staff members was very high, employee morale was suffering, and the City was experiencing and anticipating more employee retention problems; and given the low community demand for services during the final week of the year, the City Manager's Office believed, and the City Council agreed, that this morale-boosting benefit could be provided with minimal impact to the City's services to the community; and

WHEREAS, to partially offset the additional holidays at the end of the year, the City employee unions agreed in the MCEA MOUs to forego Columbus Day as a holiday; and

WHEREAS, the MCEA MOUs also provided for a one-time payment of \$2,500 per employee as a stipend, which was provided in lieu of an ongoing salary increase, and in recognition of the significant cost of living and Consumer Price Index increases during that period; and

WHEREAS, when the additional holiday and stipend benefits were provided to MCEA employees, it was understood and expected that similar benefits would be provided to Meniffee Police Department employees; and

WHEREAS, because the Police Department employees were in the middle of their existing Memorandum of Understanding (“MOU”) terms (which run from 2021-2024), additional holiday time off and a \$2,500 stipend for those employees should have been the subject a formal meet and confer process followed by approval of the arrangement in open session of the City Council. That process was not followed because the City Manager's Office, at the time, authorized the additional time off and stipends for Police Department employees under the good faith and honest, but incorrect, belief that it had the authority to provide those benefits; and

WHEREAS, had the proper procedures been followed, the Police Department employees would have accepted the additional benefits, and the City Council would have approved the additional benefits. However, the formal procedural steps “fell through the cracks” and the benefits were provided without obtaining the necessary approvals. This is partially demonstrated by the City Council’s open session action on December 6, 2023, to extend the holiday closure benefit to the Menifee Miscellaneous Police Employee Association.

WHEREAS, in addition to receiving the week between Christmas 2022 and New Years Day 2023 off, the City Manager’s Office, at the time, also authorized December 23, 2022 (the Friday before Christmas) as a holiday for City (non-police) employees; and

WHEREAS, when a holiday such as Christmas Eve falls on a Saturday, the City typically “recognizes that holiday” on the preceding Friday. But, overlooked by the City Manager’s Office, at the time, the MCEA MOUs provided that the Christmas Eve holiday was “rolled forward” into the subsequent week in order to facilitate the full week off between Christmas 2022 and New Years Day 2023. The City Manager’s Office at the time overlooked that factor and mistakenly gave December 23, 2022 as a holiday for City (non-police) employees; and

WHEREAS, individual members of the City Council were aware that City Hall would be closed on December 23, 2022, and that City (non-police) employees would receive paid time off for that day; and

WHEREAS, members of the City Council would have approved modifications to the MCEA MOUs to memorialize that benefit, if that modification had been presented to the City Council for open session approval. Unfortunately, as a result of good faith errors, the documentation was not prepared and presented to the City Council for open session approval; and

WHEREAS, each of these errors – additional holidays between Christmas and New Years Day in 2021-2022 and 2022-2023; stipends to Police Department employees; and City Hall closure/holiday status for December 23, 2022 (the “Past Actions”) – was made in good faith; the City Manager’s Office believed the City Manager had the authorization(s) necessary to provide the benefits, and that its actions were fully consistent with City Council expectations. Nevertheless, the items should have been brought forward for formal City Council approval; and

WHEREAS, this Resolution and the actions memorialized herein are an appropriate legal action that takes practical and reasonable steps to address the expenditures associated with the Past Actions.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the City Council of the City of Menifee, State of California, as follows:

1. The foregoing recitals are true and correct.

2. The City Council finds and determines that, while erroneous, each of the Past Actions was the product of reasonable good faith mistakes regarding the scope of the City Manager's existing authority and good faith errors in judgment.
3. The City Council finds and determines that it would have approved each of the Past Actions had they been properly presented to the City Council in open session.
4. The City Council finds and determines that the Past Actions did not result in expenditures that the City Council would not have authorized had they been properly presented to the City Council in open session.
5. The City Council ratifies and retroactively approves each of the Past Actions.

PASSED AND ADOPTED by the City Council of the City of Menifee, State of California this 15th day of May 2024.

Bill Zimmerman, Mayor

Attest:

Stephanie Roseen, Acting City Clerk

Approved as to form:

Jeffrey T. Melching, City Attorney