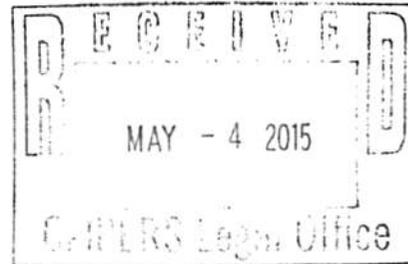


**ATTACHMENT C**  
**WRITTEN COMMENTS**



## City of Avenal

919 Skyline Blvd.  
Avenal, CA 93204  
Phone (559) 386-5766  
Fax (559) 386-0629



CalPERS Legal Office  
Attn: Wesley E. Kennedy, Senior Staff Counsel  
400 Q Street, Room LPN 3340  
Sacramento, California 95811

Re: Adams v. City of Bell  
Comments

Dear Mr. Kennedy:

The City of Avenal would like to express its concern regarding the proposed policy issue regarding a members' pay rate. According to the email from your office dated Friday, April 17, 2015, CalPERS is trying to determine whether a members' pay rate or base pay must be created by public notice, action of the governing board and with public consent in order to be used in the calculation of compensation. We oppose such a policy decision.

To require a City to hold, in essence, a public hearing before establishing a pay rate or a pay scale would serve no purpose. Further, to require a public's consent would, in essence, abolish the need for a City Manager and/or a Human Resources Department dealing with salaries.

All employees' base rate and salaries are already a matter of public record, and any efforts to require such pay rates to be established by the public would be unacceptable.

Thank you for your consideration.

Sincerely,

CITY OF AVENAL  
  
Melissa Whitten  
City Manager

COPY



## CITY OF SIGNAL HILL

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2175 Cherry Avenue • Signal Hill, CA 90755-3799

May 5, 2015

**Via Facsimile (916) 795-3659**

CalPERS Legal Office  
Attn: Wesley E. Kennedy, senior staff counsel  
400 Q Street, Room LPN 3340  
Sacramento, CA 95811

**RE: *In the matter of the Calculation of Final Compensation of Randy G. Adams***

Per your request for public comment as to whether the CalPERS Board of Directors should make its decision in the above-referenced matter ***precedential*** for purposes of providing guidance to courts, administrative law judges, future Boards of Directors, and the general public on the issue of calculating final compensation of public employees for purposes of determining CalPERS retirement benefits, please note that the City of Signal Hill strongly supports such action.

As we understand the facts of the *Adams* case, Mr. Adams began serving the City of Bell as its Chief of Police in July, 2009, and ended his tenure at Bell in July, 2010. During this 1-year period, Mr. Adams earned approximately \$457,000. Upon retirement, Mr. Adams contended that calculation of his retirement benefits should include his earnings from Bell. The City of Bell and CalPERS disagreed, claiming that Mr. Adams' employment contract, although made available to the public upon request, did not meet the definition of "compensation earnable" and that his pay rate was not set forth in a publicly available pay schedule as required by law. The administrative law judge hearing the case agreed with Bell and CalPERS, and the Board of Directors adopted such decision.

From a policy perspective the decision addresses two key points: first, there is a common misconception that a public employee's "gross pay" is the amount used in calculating his/her retirement benefits. The *Adams* decision educates us that this is not the case. "Compensation earnable" is the "normal" or "base" rate of pay paid in cash to similarly situated members of the same group or class, and they must be stable, predictable, and publicly noticed in order to be used in calculating retirement benefits. A public employee's "gross pay" may or may not meet this definition. Employers and employees should know this so that there are no surprises when CalPERS calculates a member's retirement benefits.

Calculation of Final Compensation  
May 5, 2015  
Page 2

Second, emphasizing that an employee's rate of pay must be publicly noticed promotes transparency by discouraging back room deals and legal slights-of-hand, like a city council delegating approval authority for employment contracts to a staff person. Improved transparency is good for local government, for it fosters trust between the public and its elected officials.

On behalf of the City of Signal Hill, thank you for considering our comments.

Sincerely,



Kenneth C. Farising  
City Manager

cc: City Council  
Charlie Honeycutt  
Mary Gilmore  
David Aleshire  
Steve Onstot