

# Marin OKs report dismissing grand jury pension criticism



Paul Premo of Mill Valley is among those to address the Board of Supervisors about a grand jury report on pension benefits. Robert Tong — Marin Independent Journal

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By **Nels Johnson**, *Marin Independent Journal*

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Ignoring a parade of critics who championed grand jury assertions of pension improprieties at the Civic Center, officials embraced a report indicating that benefits could not be withdrawn because the county was in “substantial compliance” with the law.

The grand jury said retroactive pension benefits were approved without appropriate public notice or cost analysis more than a decade ago, and although county supervisors conceded that officials did not fully comply with cost and related disclosure requirements, they said nothing could be done now — other than follow the law in the future. “We definitely will do it going forward,” said County Administrator Matthew Hymel. “We will follow every statutory required procedure.”

At issue Tuesday was a county document largely dismissing the grand jury’s disclosure of wrongdoing that deprived the public of advance notice of benefit hikes and their costs. The response to the jury, based on an independent legal analysis by the Meyers Nave law firm of Oakland, was approved by the county board as written by the administration.

Supervisor Steve Kinsey, complimenting the jury for its work, said he regretted that the county board — of which he was a member at the time — violated procedural requirements, but added the shortcomings did not trump vested benefits.

Other officials joined Marin Association of Public Employees chief Roland Katz in noting the same critics who called for the independent legal analysis of the jury report, claiming County Counsel Steve Woodside had conflicts of interest, now were rejecting the independent report because they didn’t like its conclusions.

## PENSION CRITICS

A dozen members of Citizens for Sustainable Pension Plans, two supervisory candidates and others lined up to provide commentary that in general excoriated the legal analysis and the county response. Pension critics handed over a detailed legal analysis by the group’s lawyer that took issue with the county review. Asked later if the pension reform group intended to sue the county, founder Jody Morales said, “I’ll let you know.”

Supervisors rejected a call to delay action giving citizens more time to chime in, and brushed aside a demand that the three veteran board members benefiting from pensions, as well as County Administrator Hymel, recuse themselves from the discussion due to financial interest.

“The public was denied the right to analyze and oppose ... pension increases,” despite government code requiring it, noted critic Bob Stephens. Moves made without public disclosure were costly, added critic Marty Miller, a retired actuary who said that \$11 million in unfunded liability in 2001 had ballooned to more than \$562 million today after accounting changes were taken into consideration.



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One man observed that county officials seem to follow a “double standard” by requiring that others follow the law, while giving themselves leeway to be in “substantial compliance” with it. “You need to follow the letter of the law, whatever that is,” he declared, adding the pension program was an underfunded “Ponzi scheme” destined to collapse.

## ‘THOUGHTFUL REPORT’

But Katz, joined by colleague Bob Briare, head of Marin Professional Firefighters, called the administration’s response a “thoughtful report.”

In an unusual appearance 11 hours before their terms expired, most grand jurors attended the session, and stood when jury foreman Jack Nixon, a former San Rafael city councilman, gave them a salute from the podium as hard-working citizens doing their best work for the county. “Our jury represents the brightest and best in Marin County,” Nixon said in brief remarks. “You would not imagine how hard we worked on all our reports.”

Jurors do not talk about reports that are issued, Nixon added. “The reports speak for themselves.” The policy prevented him from discussing jury conclusions that were rejected by the county’s legal analysis.

The jury’s key claim, that violations of public notice, audit, disclosure and related rules years ago might jeopardize pensions that were awarded, has no merit, the county analysis asserted.

“Outside legal counsel has reviewed relevant case law and has advised that the government code sections at issue do not state that failure to comply makes pension increases void, and the county substantially complied with the requirements of the government code,” the response said.

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