



# Town Topics

THE PRETTIEST  
SMALL TOWN  
IN AMERICA

www.lauderdalebythesea-fl.gov

LAUDERDALE-BY-THE-SEA'S OFFICIAL TOWN NEWSLETTER

VOLUME 19, ISSUE 3

MARCH 2006

## Town News

### TOWN ELECTION MARCH 14TH

Four candidates are seeking two Town Commission seats in the Town's biennial municipal election on Tuesday, March 14th.

Vice Mayor Ed Kennedy and candidate Jerry McIntee are running for the District 1 Seat. Candidate Jim Silverstone and Town Commissioner David Wessels are seeking the District 2 Seat.



### PRECINCT INFO CORRECTION

The February issue of Town Topics contained incorrect precinct information. **Precinct 30Q and 33Q are in Jarvis Hall, 4505 N. Ocean Drive. Precincts 31Q and 32Q are in Assumption Catholic Church, 2001 S. Ocean Blvd.** The Town apologizes for any confusion this has caused. The polls on **Tuesday, March 14th** are open from **7 AM to 7 PM**.

### CANDIDATES' NIGHT MARCH 8TH

The Property Owners Association will hold its second 'Meet the Candidates Night' on Wednesday, March 8th at 7 PM in Jarvis Hall.

The event is open to the public and will be aired on Channel 78.

## Town voters face important issue in March over height

□ Town officials urge voters to defeat the proposed height-limit charter amendment on the March 14 ballot, fearing it could spark costly lawsuits.

Voters must make a very important decision in March about what has been an emotional issue in this community for decades: the height of buildings in Town.

Fort Lauderdale has **Galt Ocean Mile**, but Lauderdale-By-The-Sea in 1973 limited buildings to 44-feet, preventing the further development of high-rise condos on the beach. Our height limit helped the Town maintain its unique and small-town charm.

Not every building in Town is four stories. The Town has several high-rise condos, including the **Fountainhead** and the **Caribe**, south of Palm Avenue. The Sea Ranch Lakes condos, across from Publix Supermarket, also exceed the 44-foot height limit by several stories.

When the Town annexed the unincorporated **North Beach Area** in October 2001, it promised property owners in that area — in a written agreement — not to lower their 15-story height limit. The buildings in North Beach, in fact, range from 2 to 23 stories.

A Town Charter referendum question placed on the March ballot by the **Citizens Initiative Committee**, if adopted, would reduce the 15-story height limit to four stories. While this would make the Town's height limit consistent, the **Town Commission** and **Town Attorney** each believe that taking away the property rights of residents in that area would expose the Town to serious legal liability in court. If so, the **Town Manager** is concerned the financial ramifications would be extremely damaging to the Town's budget.

Under Florida law, the property rights of individuals are protected under the **Bert J. Harris, Jr., Private Property Rights Protection Act**, which allows any aggrieved property owner who demonstrates that governmental action "inordinately burdens" their property rights to sue the Town for monetary damages.

### THE HEIGHT ISSUE

□ Judge clears way for Sea Colony development. **Page 6.**

□ Town Planner says impact of North Beach development would be minimal. **Page 6.**

□ A letter to residents from Mayor Oliver Parker. **Page 7-8.**

(See **HEIGHT** on Page 11)

### TOWN DIRECTORY



Mayor  
**Oliver Parker**  
 Vice Mayor  
**Ed Kennedy**  
 Mayor Pro Tem  
**Chuck Clark**  
 Commissioners  
**David Wessels**  
**John Yanni**

Town Manager  
**Robert Baldwin**  
 Town Attorney  
**James Cherof**  
 Town Clerk  
**Alina Medina**  
 Finance Director  
**Esther Colon**

Municipal Services Director  
**Bill Mason**  
 Development Services Director  
**Harry Diehl**  
 Broward Sheriff's Office  
**Chief Scott Gooding**  
 Fire Administrator  
**Frank Buchert**  
 Town Chaplain  
**Rev. John Handrahan**  
 Public Information Officer  
**Steve d'Oliveira**

Lauderdale-By-The-Sea  
 4501 Ocean Drive  
 LBTS, FL 33308  
 Tel: 954-776-0576

### TOWN TOPICS

Town Topics is published at the beginning of each month. Information or ads can be dropped off at Town Hall or submitted via e-mail to the Town's Public Information Office at [lbtspio@yahoo.com](mailto:lbtspio@yahoo.com).

### Walk for the Animals to be held March 4th

You and your dog are invited to join the members of the **LBTS Property Owners Association** on **Saturday, March 4th** for **Walk For The Animals**, an annual event sponsored by the **Humane Society of Broward County**.

If you love animals but can't come to the event, a donation to the Humane Society in the name of the **LBTS Sandy Paws Pack** would be appreciated. If your pet lives now only in your memory, a donation would be a nice tribute.

Walkers in the Sandy Paws Pack will enjoy a free **IHOP** breakfast and entertainment. Prizes will be awarded to walkers who collect \$75 in pledges. For more info, call **Cindy Geesey** at 954-776-5974. □

THE LAUDERDALE-BY-THE-SEA GARDEN CLUB INVITES YOU TO ITS

### APRIL FOOL'S FOLLY



FLOWER SHOW & TEA

JARVIS HALL

APRIL 1ST  
1- 4 PM

DONATIONS APPRECIATED

### MEETINGS GUIDE

#### Town Commission

APRIL 11 - 7 PM  
 APRIL 25 - 7 PM

Town Commission regularly meets on the second and fourth Tuesdays of the month in Jarvis Hall. Pre-meeting agenda conferences start at 6 PM and are open to the public.

#### Board of Adjustment

Meets as needed on the third Tuesday of the month at 3 PM

#### Planning & Zoning

Meets as needed on the third Wednesday of the month at 6:30 PM

APRIL 19 - 6:30 PM

#### Parking Hearing

APRIL 24 - 6 PM

#### Code Compliance

Meets as needed on the fourth Wednesday of the month at 2 PM

#### Master Plan Steering Committee

APRIL 17 - 6:30 PM

TOWN MEETING DATES SUBJECT TO CHANGE.

#### PUBLIC ACCESS

- The Town Commission agenda and related backup materials are available for review in Town Hall during business hours (9AM - 4:30 PM). The agenda is posted on our Web site: [www.lauderdalebythesea-fl.gov](http://www.lauderdalebythesea-fl.gov)
- Commission meetings are televised live on Channel 78. Meetings are also re-broadcast at noon on Wednesday, Friday and the following Monday.
- The Town will provide appropriate auxiliary aids and services as required under the federal Americans with Disabilities Act. **Town Topics** will be read, upon request, to those persons with visual impairments. Persons with disabilities should contact the Town Clerk at 954-776-0576 for further assistance in accessing Town information important to you.

# COP volunteers help keep Town safe

By Chief Scott A. Gooding  
Broward Sheriff's Office

Keeping a community safe is not just the job of law enforcement professionals. It's everyone's job. It just doesn't happen without a concerted effort on many people's part. We are safe because of the outstanding police work of our law enforcement professionals, dedicated citizen volunteers and committed elected officials who, working together, ensure that our community remains a safe place...day and night, all year round!

Many community-based programs contribute to our success. Noteworthy among these programs are Broward County Crime Stoppers, Neighborhood Crime Watch and the Citizen Observer Patrol (COP). All of these programs work because of committed volunteers who contribute their time to make a real and meaningful difference in their community.

The COP is a unique voluntary program that affords citizens the opportunity to serve their community. **Sheriff Ken Jenne** recognizes the importance of building relationships between law enforcement and the community and fostering effective communication with our citizens. Through BSO, the COP provides meaningful support to deputies in their responsibilities to fight crime and protect our citizens.

While our citizens regularly see the specially-marked BSO Citizen Observer Patrol car, many do not realize the impressive commitment these dedicated volunteers make to

Lauderdale-By-The-Sea. Some of their most significant contributions last year occurred in the aftermath of **Hurricane Wilma**. The Town Commission recognized COP members **Bill Johansen** and **Dick Clark** who — working alongside our BSO deputies manning around-the-clock check points, water, ice and



**COP CAR:** A Citizen Observer Patrol car in front of LBTS Town Hall.

food distribution — logged more than 50 hours during the week following the hurricane.

While on patrol at night following the storm, longtime COP member, **Mike San Miguel** and Clark discovered a couple with a serious medical emergency: the wife was out of oxygen. The COP's quick action resulted in Fire Rescue transporting the resident to the hospital. They were later credited with most likely saving her life.

Veteran COP members **Margaret Reichenstein** and **June Lassel**, while maintaining an active patrol schedule, dedicated countless hours supporting BSO administration in the office answering phones and assisting our residents.

Important to our community life and spirit are those signature events like Christmas-By-The-Sea, craft Shows and other special community activities. All of these

events require strategic support from our BSO deputies and staff. Once again, our COP volunteers — **Stephen Sykes, Mary Butterfield, Bob Kalman, Bill Johansen, Margaret Reichenstein, June Lassel, Dick Clark, Anne Meretsky, Mitch Nowak, Dolores** and **Mike San Miguel** — signed up to support the events and associated patrol details.

Why do our residents sign up to join the COP program? Most of them would tell you that they feel a tremendous sense of satisfaction from helping their fellow residents and giving back, in a meaningful way, to the community in which they live.

More and more residents are stepping forward to become involved in the COP program. BSO welcomes **Lou Del Pozzo, Anita Aubin**, and **Jeen Beintema** who recently joined the COP program.

COP volunteers are issued official COP uniforms. They are professionally trained by Sheriff's department officers to spot suspicious activity, potential hazards and support our citizens and tourists in Lauderdale-By-The-Sea. Working under the supervision of BSO's leadership, COP volunteers patrol neighborhoods, business districts and recreational areas, providing yet another important set of eyes for law enforcement.

Typical patrol assignments are carried out by two person units patrolling all areas of Lauderdale-By-The-Sea, normally in three to four

(See COP on Page 4)

**COP** (continued from Page 3)

hour shifts. Each month the COP volunteers select the patrol dates, hours and partners with whom they want to patrol. The group meets monthly to discuss patrol strategies, receive educational training and review special assignments.

**How do I sign up?**

Applicants must be at least 18 years of age, reside in Broward County, pass a background check, possess a valid Florida driver's license, complete at least four hours of training and comply with all program policies and procedures. Volunteers are stepping up to join the COP regularly.

**The Citizen Observer Patrol is a powerful partnership between the community and law enforcement!**

Interested citizens should call **Sgt. Douglas Brown** or **Deputy Maria Sosa** at BSO's Lauderdale-By-The-Sea office for a Citizen Observer Patrol application. The number is 954-491-3920.

As you can see, keeping Lauderdale-By-The-Sea a safe community results from the powerful combination of law enforcement professionals, volunteer residents and our elected officials working together. Each depend upon one another for support, training and coordination to make this effort succeed.

On behalf of Sheriff Jenne, all of the dedicated officers, administrative staff and command personnel, BSO salutes the men and women of the Citizen Observer Patrol for their valuable dedication and sacrifice to our community. ▣



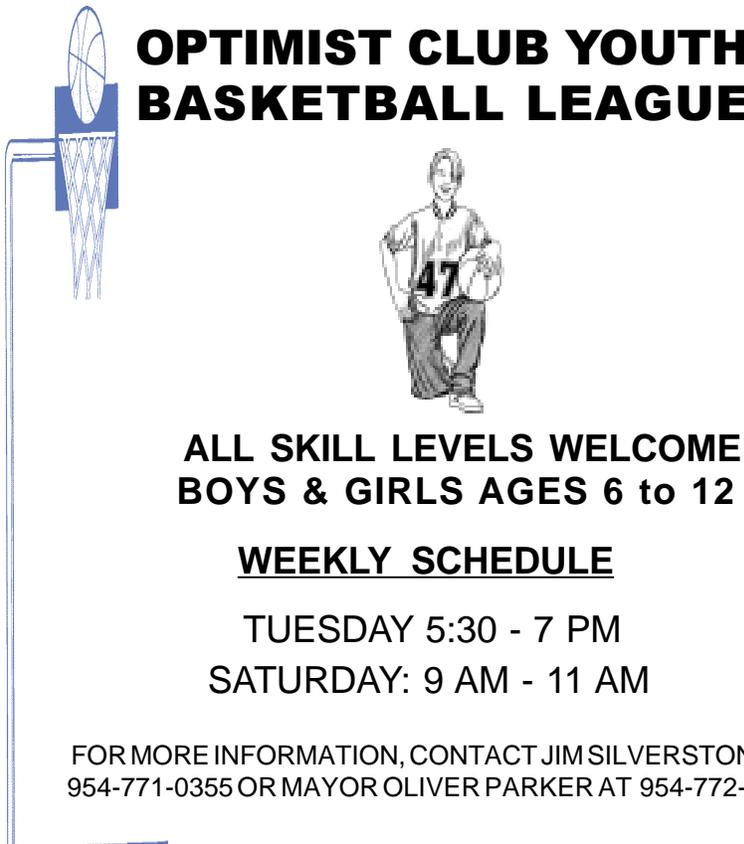
**EASTER EGG HUNT**

**SATURDAY, APRIL 15**  
**9 AM — JARVIS HALL**

**THERE WILL BE 5,000 EASTER EGGS FOR CHILDREN TO FIND AND KEEP!**

**AGE GROUPS**  
4 AND UNDER  
5 AND UP  
9 AND OLDER

FOR MORE INFORMATION, CALL 954-776-0576  
SPONSORED BY THE MAYOR & TOWN COMMISSION



**OPTIMIST CLUB YOUTH BASKETBALL LEAGUE**

**ALL SKILL LEVELS WELCOME**  
**BOYS & GIRLS AGES 6 to 12**

**WEEKLY SCHEDULE**  
TUESDAY 5:30 - 7 PM  
SATURDAY: 9 AM - 11 AM

FOR MORE INFORMATION, CONTACT JIM SILVERSTONE AT 954-771-0355 OR MAYOR OLIVER PARKER AT 954-772-6468.

**THE LIONS CLUB OF  
LAUDERDALE-BY-THE-SEA INVITES YOU TO ITS**



**RUMMAGE SALE**  
**SATURDAY, MARCH 11TH**  
**9 AM - 5 PM — JARVIS HALL**

**FROM TOYS FOR TOTS TO GARMENTS FOR GALS & GUYS ... & LOTS MORE!  
A HAMMOND ORGAN WILL GO TO ONE LUCKY BIDDER AT THE SILENT AUCTION!**

**BSO POLICE BLOTTER**

**01/02/06**

— A subject was arrested in the 1500 block of S. Ocean Boulevard reference violation of parole and DUI.

— A subject was arrested at 4331 Briney Ave., on an active warrant reference theft to deprive.

**01/04/06**

A subject was arrested at 1480 S. Ocean Boulevard reference an outstanding warrant for probation violation for possession of cocaine.

**01/05/06**

Two juveniles fled from a stolen truck at Datura Avenue and El Mar Drive after striking a parked car, stop sign post and the corner of a building after trying to park. The subjects fled and stole 2 unattended bicycles valued in excess of \$300. Subjects were apprehended at 4105 Ocean Drive.

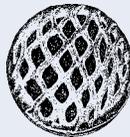
**01/06/06**

A subject was arrested at 1 Commercial Blvd., for trespassing.

**01/11/06**

A subject was arrested at 5100 North Ocean Drive for DUI. □

THE LBTS WOMAN'S CLUB  
INVITES YOU TO ITS ...



**DESSERT CARD  
PARTY AND  
SILENT AUCTION**

**MARCH 4TH  
TIME: 10:30 AM  
JARVIS HALL**

**\$5 DONATION REQUESTED  
BRING YOUR FRIENDS, A  
SANDWICH AND/OR A GAME**

FOR INFO, CALL 954-772-2267.

**POA HOLIDAY CORRECTION**

There is a correction to the Holiday Decoration Contest single-family home winners. Third Place should go to the Platner Family, 1951 SE 19th St. We apologize for the error and thank them for their holiday spirit.

— **Cindy Geesey**

**Garden Club set to meet  
March 13th in Jarvis Hall**

The **Lauderdale-By-The-Sea Garden Club** will meet on **Monday,**

**March 13th at 9:30 AM** in **Jarvis Hall** to prepare for its upcoming flower show with **Judge Cindy Reiger**, who will demonstrate different creative and traditional flower-arranging designs.



This is a great opportunity to see how it's done. Anyone

interested in flower arranging is urged to stop by and join in the fun on March 13th.

For more information, please contact **Christine Carlson** at 954-290-5609. You can also contact her at the following e-mail address: [cbscarlson210@comcast.net](mailto:cbscarlson210@comcast.net). □

## Town loses Sea Colony lawsuit, but may appeal

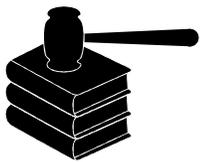
Barring an appeal, the Town of Lauderdale-By-The-Sea has already lost one lawsuit related to the issue of height restrictions in the **North Beach Area**.

The **Town Commission** last May 10th adopted a motion "declaring a zoning in progress" and asked its **Town Attorney** to draft an ordinance imposing a six-month moratorium on buildings that exceeded the Town's 44-foot height limit.

The **Sea Colony Condominium**, 1400 S. Ocean Blvd., submitted a site review plan to construct a 15-story, high-rise residential condominium on May 23, the day before the Town Commission formally adopted a resolution establishing the moratorium.

The Town believed its earlier motion declaring zoning in progress was sufficient cause not to process Sea Colony's site review application, but a judge disagreed.

**Broward Circuit Court Judge Robert Andrews** ordered the Town on Jan. 31 to process the application, ruling that the Sea



Colony's site review plan was submitted on May 23, a day before the Town formally estab-

lished its building moratorium.

The Sea Colony, which is represented by **Ruden, McClosky, Smith, Schuster & Russell**, a Fort Lauderdale law firm, filed suit against the Town on Sept. 22nd.

"While the Town makes a strong argument for zoning in progress, and that the Town Commission adopted a motion on May 10, 2005 declaring a zoning in progress, it fails to address the

The Town has already been taken to court by a North Beach property owner who submitted plans to develop a 15-story, high-rise residential condominium on the beach.

fact that Resolution 2005-08 specifically provides that "[n]o application for development or redevelopment activity within the study area shall be accepted or processed by the Town following the date of adoption of this Resolution during the study period, unless the application was filed prior to the adoption date of this resolution," Judge Andrews stated in his order.

In the litigation, Sea Colony attorneys seized on a letter submitted to Judge Andrews by CIC leader **Jerry McIntee** in which McIntee criticized the Town's efforts to declare zoning in progress.

While difficult to gauge the effect on the outcome of the case, the Town Attorney earlier advised the **Town Manager** that "by attacking the Town, the CIC played right into the hands of the developer. The judge could easily conclude from the CIC letter that citizens of the Town agreed with the Plaintiff" ■

### Development impact would be minimal

If the **North Beach Area's** current 15-story height limit is not reduced, the development impact to the Town would be minimal, according to a planning study done by **Walter H. Keller, Inc.** the Town's consultant planner.

Keller identified existing development characteristics in the North Beach Area with the potential to redevelop in the future.

The maximum number of existing stories varied considerably with buildings on the east and west side of **State Road A1A**. West of A1A, most of the existing buildings are three stories. East of A1A, the number of stories varies from two to 23.

About 15 parcels are either under construction or are already developed with 15 or more stories. The remaining 15 parcels on the east side of A1A have the potential to be redeveloped.

"If the parcels were redeveloped under current land use and zoning, an additional 255 dwelling units could be added to the Study Area," Keller's report stated.

He also said the traffic impact would be minimal, because of the lack of occupancy year round.

**Aquazul**, a 15-story high-rise that just opened in the North Beach Area, has condominium units on sale ranging from more than \$1 million to \$2.5 million. □

# March height issue places Town's future in jeopardy

## Dear Residents:

I am writing to you because our future as a Town is in jeopardy. A citizens group has proposed an amendment to the **Town Charter** that would reduce building height limits east of **State Road A1A** in



Mayor Oliver Parker

the newly-annexed portion of the Town from 15 stories to 4 stories. This Charter Amendment is set for the **March 14th ballot**. If adopted by the voters, the

Amendment will expose the Town to serious financial risks.

When I was first elected Mayor In 1998, I ran on a platform of creating a Charter-imposed height limit of 4 stories in the area south of the **Village of Sea Ranch Lakes**, in what is sometimes referred to as **Old Town**. With the help of neighbors such as you, we went door-to-door gathering signatures to put height limits in the Charter. Our proposal passed overwhelmingly, and ever since the southern half of Town has been subject to a 4-story (44-foot) height limit.

You might well ask, "If you supported a 4-story height limit in the southern half of Town in 1998, why aren't you supporting a 4-story height limit in the newly-annexed northern half of Town today?"

Because there is a big difference between the Charter Amendment we enacted in 1998 and the one you will vote on in March. The 1998 Charter Amendment did not lower height limits anywhere in the southern half of Town; it only took the power to raise height limits in what was then the **southern half of Town** away from the **Town Commission** and

gave that power to the voters, which is where I believe it belongs.

By contrast, the March Charter Amendment will not simply take the power to raise height limits in the **northern half of Town** away from the Town Commission (something that I strongly favor), but will actually lower height limits along the beach in the northern half of Town from 15 stories to 4 stories, which is a clear violation of the **Bert J. Harris, Jr. Private Property Rights Protection Act** (Florida Statute 70.001).

Section (2) of the *Bert J. Harris Act* provides that:

**"When a specific action of a governmental entity has inordinately burdened an existing use of real property or a vested right to a specific use of real property, the property owner of that real property is entitled to relief, which may include compensation for the actual loss to the fair market value of the real property caused by the action of government."**

Under the existing zoning code, the property owners east of A1A in the northern half of Town have the right to build up to 15 stories. If the March Charter Amendment passes, any property owner whose property does not already have a 15-story building on it will lose that right. Henceforth, these property owners will only be allowed to build up to 4 stories. Under the provisions of *Bert J. Harris*, these property owners will be entitled to compensation for the actual loss to the fair market value of their real property caused by this reduction in allowable building height.

The supporters of the March Charter Amendment argue that *Bert J. Harris* only applies to governmental action, and that Charter Amendments enacted by means of citizen-

initiated referendums do not constitute governmental action. Thus, they argue that *Bert J. Harris* does not apply, but they do so knowing that no Florida appellate court has ruled on that issue. Sadly, a lower court has already considered this argument and rejected it.

In *City of West Palm Beach vs. Fidelity Federal Savings Bank*, Case No. CL 97-1470-AE (Fla. 15th Circuit, 1997), a citizens group reduced height limits along the waterfront from 15 stories to 5 by means of a voter-initiated referendum. The defendant, Fidelity Federal Savings Bank, filed a \$10 million *Bert J. Harris* claim against the **City of West Palm Beach**. The City filed a lawsuit seeking to dismiss Fidelity Federal's \$10 million claim, arguing that a citizen-initiated referendum is not governmental action and that the *Bert J. Harris Act* does not apply. In rejecting the argument, the court ruled *Bert J. Harris* did apply, arguing that:

**"The Florida Constitution, Article 1, Section 1 states: "All political power is inherent in the people. Our theory of government is that the power flows from the people and in our form of government, the way in which laws are enacted, whether it be in a town meeting or whether it by referendum or in some representative form of government doesn't change the fact that the legislation is state action (or in this case), city action."**

If one judge can reach that conclusion, there is reason to conclude that others will as well. The supporters of the March Charter amendment also argue that my attempt to point out the dangers of the *Bert J. Harris Act* is only a scare tactic meant to frighten voters

(See **FUTURE** on Page 8)

**FUTURE** (continued from Page 7)

into rejecting the 4-story height limit along the beach in the northern half of Town. The supporters claim that support for the 4-story height limit is so strong that no one will file a *Bert J. Harris* claim against the Town. Unfortunately, they are mistaken.

The **Sea Colony** has already sued the Town over the height limit issue (see story on Page 6). The Sea Colony has 18 units on 175 feet of oceanfront. The last unit sold in the Sea Colony sold for approximately \$250,000 a little more than three years ago. Under their present use, these 18 units have a market value of around \$500,000 per unit — or \$9 million for the entire property. The Sea Colony was offered \$18 million for the entire property by a developer, provided the Town allows him to build 15 stories. Thus, the difference in market value for this 175 feet of oceanfront zoned for 15 stories versus this same property zoned for 4 stories is approximately \$9 million — or more than \$50,000 a foot of oceanfront.

In addition, on Jan. 26 the Town received a letter from the **Coastal Arms**, a 20-unit North Beach co-op where each unit is worth \$500,000, urging the Town not to reduce the 15-story height limit in their area. “We are prepared to explore all possible avenues to recover our land value potentially lost as a result of any changes to the present zoning building codes,” the letter stated.

Basically, this was a very polite way of telling us they’re going to sue. And at the Feb. 14th Town Commission meeting, a Coastal Arms spokeswoman said they indeed would sue the Town.

Since the Coastal Arms has 200 feet of oceanfront, using the Sea Colony formula, the difference in value between their property zoned for 15 stories and zoned for 4 stories is about \$10 million. A developer has offered the Coastal Arms in excess of \$20 million if it

can build to 15 stories.

Further, the attorney for the **Sea Watch Restaurant** has told me that the owner of the Sea Watch will take whatever action is necessary to protect the value of his property. Again, a polite way of saying that if the March Charter Amendment passes, the Sea Watch will file a *Bert J. Harris Act* claim. Since the Sea Watch has 300 feet of oceanfront, using the Sea Colony formula, the difference in value between the Sea Watch

**When you vote on March 14th, say no to irresponsible height restrictions that could possibly cause taxes to skyrocket or the Town to go bankrupt.**

property zoned for 15 stories and zoned for 4 stories is about \$15 million.

And these are only three of the 11 oceanfront properties in the northern half of Town that presently do not have buildings taller than 4 stories. These 11 properties have in excess of 2,200 front feet of oceanfront. If they all sue, using the Sea Colony formula, their total difference in value zoned for 15 stories and zoned for 4 is \$110 million. Hopefully, not all of these property owners will sue. But we do know that at least three of them will: The Sea Colony, the Coastal Arms and Sea Watch. These suits alone will create a potential liability for the Town in excess of \$34 million.

I support height restrictions, because height limits have helped Lauderdale-By-The-Sea maintain its small-town ambiance and charm. But I support responsible building height limits, especially one that does not threaten the future solvency of the Town, such as the

building height limits that would be imposed by the Charter Amendment the Town Commission is submitting to voters this November.

Under the Town Commission’s Charter Amendment, the maximum building height townwide would be 4 stories (or more accurately, 3-over-1), except for the area along the beach east of A1A in the newly-annexed northern half of the Town (the area north of Pine Avenue).

In this area — **and this area only** — the Town Commission could authorize buildings taller than 4 stories (but no taller than 15 stories), provided certain conditions were met. The most important condition is that properties with new buildings taller than 4 stories would be required to dedicate a portion of their side setbacks to the Town for use by the general public as pedestrian walkways to the beach.

Unlike the March Charter Amendment, the Commission’s proposed November Charter Amendment does not lower building heights along the beach. Because it doesn’t lower building heights, it does not violate the *Bert J. Harris Act* and does not threaten the future solvency of the Town.

Instead, the proposed November Charter Amendment is content to take the power to raise height limits in the northern part of Town away from the Commission and give it to the voters, which is where it belongs. If approved by voters, the Town’s November amendment would keep taxpayers out of court while requiring developers to provide public access to the ocean and the beach for residents west of A1A.

When you vote on March 14th, say **no** to irresponsible height restrictions that could possibly cause taxes to skyrocket or the Town to go bankrupt. When you vote in November, say **yes** to responsible height restrictions that would allow the voters — and not the Town Commission — the final say on building heights in our Town.

**Sincerely,**

**Mayor Oliver Parker**

# STARGAZING

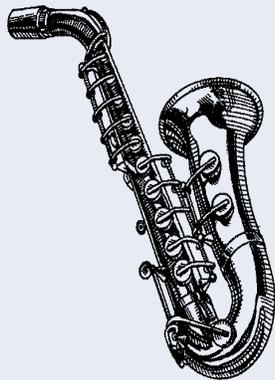
**FREE CONCERT UNDER THE STARS!**

**SATURDAY-  
MARCH 11TH**

**TIME: 7PM**

**ON THE BEACH AT EL PRADO &  
EL MAR / ACROSS FROM TOWN HALL**

**FEATURING**



**MIGUEL REYNA  
JUANITA DIXON  
SANDSTONE**

**REFRESHMENTS AVAILABLE!**



*Produced & directed by The Community  
Performing Arts Center and sponsored  
by the Town of Lauderdale-By-The-Sea.*

## TOWN COMMISSION DEDICATES TWO CAPITAL IMPROVEMENT PROJECTS



**MEN AT WORK:** The Town Commission held a groundbreaking ceremony for the Town's \$5 million sanitary sewer and drainage project in North Beach. Pictured above from left to right are: Commissioner John Yanni, Commissioner David Wessels, Vice Mayor Ed Kennedy, Mayor Oliver Parker and Mayor Pro Tem Chuck Clark. The Mayor and Town Commissioners (below) also held a beach portals ribbon-cutting ceremony at the Washingtonia portal. The \$706,000 project was finished in January.



**HEIGHT** (continued from Page 1)

**Town Attorney James Cherof** has told the Commission he believes the *Bert J. Harris Act* would apply to ordinances adopted by charter referendum, exposing the Town to liability. It is estimated that the Town's cost to defend a lawsuit brought by one North Beach plaintiff would exceed \$100,000, which could double if the Town were required to pay the plaintiff's legal fees and court costs. A Florida court could also award a plaintiff millions in lost property value damages.

In a letter to the Town, the **Coastal Arms**, a North Beach co-op, stated its intention to take whatever means are necessary to protect its legal rights.

In a 1997 case out of West Palm Beach (*City of West Palm Beach vs. Fidelity Federal Savings Bank of Florida*), a Palm Beach Circuit Court judge, referring to the **Florida Constitution**, ruled a referendum question initiated by residents did not absolve the city from legal liability under the Bert J. Harris Act. The case is not legally binding on the Town, but the judge's reasoning in the ruling is very clear.

"All political power is inherent in the people," the ruling stated. "Our theory of government is that the power flows from the people and in our form of government, the way in which laws are enacted, whether it be in a town meeting or whether it be by referendum or in some representative form of government doesn't change the fact that the legislation is state action (or in this case), city action."

**November referendum**

The Town has placed its own height referendum on the ballot for voters to decide in November. The Town's referendum is intended to keep the Town out of court by preserving the legal rights of property owners in the North Beach Area while giving the Town much more authority to control setbacks, landscaping and public access to the beach. □

**Lauderdale-By-The-Sea**  
**4501 Ocean Drive**  
**Lauderdale-By-The-Sea, FL 33308**

**KEY PHONE NUMBERS**

**TOWN HALL**

**954-776-0576**

**BUILDING / CODE COMPLIANCE / 954-776-3611**

**MUNICIPAL SERVICES / 954-776-5119**

**POLICE & FIRE**

**EMERGENCY / 911**

**NON-EMERGENCY / 954-765-4321**

**BSO BUSINESS OFFICE / 954-491-3920**

**SHIFT COMMANDER CELL / 954-275-9939**

**BSO FIRE & RESCUE BUSINESS OFFICE / 954-831-8200**

**WEB SITE**

**[www.lauderdalebythesea-fl.gov](http://www.lauderdalebythesea-fl.gov)**

**TOWN TOPICS**

**Town Topics** is published 12 times per year and is available on the Town's Web site the first of the month. All articles or ads for the upcoming issue must be submitted by or prior to the seventh of each month. Ads must be dropped off at Town Hall and are only accepted from businesses with bonafide Lauderdale-By-The-Sea occupational licenses. All articles must be submitted on a computer disc in word format. Articles can also be submitted via e-mail to the Town's **Public Information Office** at [lbtspio@yahoo.com](mailto:lbtspio@yahoo.com). E-mail submissions are preferred.

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