

# OKLAHOMA HORSE RACING COMMISSION

RAY BAYLIFF, CHAIR

RANDY CALVERT, ESQ., VICE-CHAIR

GENE BLEDSOE, DC, SECRETARY

ROGER COLE, MEMBER

TERRY SIMONSON, ESQ., MEMBER

DEAN SPENCER, DDS, MEMBER

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## AGENDA

Regularly Scheduled Meeting  
Thursday, November 18, 2004, 9:30 a.m.

### Meeting Location:

Activity Center, Shepherd Mall  
2401 N.W. 23, Suite 40B  
Oklahoma City, OK 73107

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Address of the:

OKLAHOMA HORSE RACING COMMISSION  
2401 NW 23, SUITE 78

OKLAHOMA CITY, OKLAHOMA 73107

(Located In SHEPHERD MALL, N.W. 23<sup>rd</sup> & Villa Avenue)

TELEPHONE: (405) 943-6472; FAX: (405) 943-6474

E-MAIL: OHRC@SOCKET.NET; WEBSITE: [WWW.OHRC.ORG](http://WWW.OHRC.ORG)

AGENDA POSTED IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING ACT.

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**CALL TO ORDER** ..... Mr. Bayliff, Chair

**ROLL CALL** .....

**BUSINESS** .....

**A. MINUTES**

The Minutes of the September 23, 2004 Rescheduled Regular Commission Meeting will be considered for approval (**Item A.1**).

**B. Continued Consideration/Deliberation of Organization License Applications to Conduct Calendar Year 2005 Live Racing and Simulcasting**

**1. BACKGROUND**

At the September 23, 2004 meeting, the Commission took preliminary action to grant conditional organization licenses and allot live race days to Remington Park, Blue Ribbon Downs and Fair Meadows at Tulsa and asked Commission Staff to draft license Orders with Findings of Facts and Conclusions of Law as discussed in Executive Session for consideration at the November, 2004 Commission meeting.

Also at the September, 2004 meeting, the Commission tabled consideration of Will Rogers Downs' CY 2005 application for organization license and allotment of live race days until complete background information requested by the Commission is received from the applicant.

**Item B.1** is the list of CY 2005 live race days for renewal organization licenses approved on a preliminary basis by the Commission as well as the dates requested by Will Rogers Downs.

| <b>Applicant</b>  | <b>Type of Application</b> | <b>Revised Number of Live Race Days Requested</b> | <b>Revised Time Frame (2005)</b>  |
|---|----------------------------|---|-----------------------------------|
| Remington Park, Inc.<br>Oklahoma City   | Renewal                    | 32<br>(QH, AP, PT)                                | March 19 -<br>June 5, 2005        |
|   |                            | 66<br>(TB)  | August 5 -<br>November 27, 2005   |
| Backstretch, L.L.C.<br>d/b/a Blue Ribbon Downs, Sallisaw  | Renewal                    | 27<br>(TB, QH, AP, PT)                            | February 19 -<br>May 7, 2005      |
|   |                            | 33<br>(TB, QH, AP, PT)                            | August 6 -<br>October 30, 2005    |
| Tulsa County Fair<br>(Tulsa County Public Facilities Auth.) <sup>1</sup><br>Fair Meadows at Tulsa | Fair Meet<br>Renewal       | 6<br>(TB, QH, PT, AP)                             | May 26 -<br>June 16, 2005         |
| Tulsa State Fair<br>(Tulsa County Public Facilities Auth.) <sup>1</sup><br>Fair Meadows at Tulsa  | Fair Meet<br>Renewal       | 22<br>(TB, QH, PT, AP)                            | June 17 -<br>July 23, 2005        |
| Will Rogers Downs, L.L.C.<br>Claremore <b>[APPLICATION TABLED]</b>                                | Original                   | 12<br>(TB, QH, AP, PT)                            | November 5 -<br>December 11, 2005 |

<sup>1</sup>The full name is the Tulsa County Public Facilities Authority.

**Renewal Applications for Organization Licenses**

**a. Remington Park**

In a renewal application, Remington Park, Inc. (RP) originally requested to conduct a 32-day live Quarter Horse, Appaloosa and Paint race meeting from March 19 through June 5, 2005 and a 66-day live Thoroughbred race meeting from July 29 through November 27, 2005. In an August 30, 2004 letter from Mr. R.D. Logan, RP General Manager, and proposed race day calendar, RP requested to alter its live race days in an effort to eliminate any overlap between Fair Meadows and RP. Mr. Logan suggested that the CY 2005 Fall Thoroughbred race meeting's opening day be changed from July 29 to August 5, resulting in moving four days of the opening week. He explained that those four days could then be moved to four Saturdays in October (October 1, 8, 15 and 22), providing for four day race weeks in October. The total number of days would remain the same and the end of the Thoroughbred race meeting would also not change.

**b. Backstretch, L.L.C. d/b/a Blue Ribbon Downs**

In a renewal application, Backstretch, L.L.C. d/b/a Blue Ribbon Downs (BRD), originally requested to conduct two 30-day live Thoroughbred, Quarter Horse, Appaloosa and Paint race meetings from March 12 through May 21, 2005 and August 26 through October 30, 2005. On August 20, 2004, the Commission was advised by Mr. Blaine Story, BRD Assistant General Manager, that BRD was requesting to amend its live race days to reduce overlap among the racetracks. The proposed revisions would change the first Mixed Breed race meeting from 30 to 27 days, starting February 19 (rather than March 12) and ending May 7 (rather than May 21) and the second Mixed Breed race meeting from 30 to 33 days, starting August 6 (rather than August 26) and keeping the same ending date (October 30). At the August, 2004 Commission meeting, BRD announced that it would like to further amend its request to add August 13 to the first Mixed Breed race meeting and delete August 26 from that same race meeting. BRD submitted a subsequent letter, received at the Commission September 8, 2004, confirming the additional proposed amendment.

**c. Tulsa County Fair (Tulsa County Public Facilities Authority)**

In a renewal application, the Tulsa County Fair (the Tulsa Public Facilities Authority) originally requested to conduct a 13-day live Thoroughbred, Quarter Horse, Paint and Appaloosa fair race meeting at Fair Meadows at Tulsa from May 26 through June 19, 2005. In a September 3, 2004 letter about the proposed revision of live race dates for the Tulsa County Fair, FMT requested to change the race meeting to six live race dates, May 26, 2005 through June 16, 2005, in order to eliminate any overlap with Remington Park.

**d. Tulsa State Fair (Tulsa County Public Facilities Authority)**

In a renewal application, the Tulsa State Fair (the Tulsa County Public Facilities Authority) originally requested to conduct a 15-day live Thoroughbred, Quarter Horse, Paint and Appaloosa fair race meeting at Fair Meadows at Tulsa from June 23 through July 16, 2005. In a September 3, 2004 letter about the proposed revision of live race dates for the Tulsa State Fair, FMT requested to

change the race meeting to 22 live race dates, June 17, 2005 through July 23, 2005, in order to eliminate any overlap with Remington Park.

2. **DELIBERATION**

Because the issuance of organization licenses includes the allocation of live race dates, and because the Commission in allocating race dates attempts to avoid unnecessary overlap among racetracks, the Commission deliberates on all applications together.

**Possible Executive Session For Purpose of Continued Deliberation on Organization License Applications and the Issuance of Conditional Organization Licenses and Allocation of Race Days for Calendar Year 2005 Race Meetings and/or Other Action Regarding the Applications**

Pursuant to 75 O.S. §312, 25 O.S. §307(B)(8) and 311 (B)(1), an Executive Session is proposed for continued deliberation on organization license applications of Remington Park, Inc., Blue Ribbon Downs and Tulsa County Fair and Tulsa State Fair (Tulsa County Public Facilities Authority) for Calendar Year 2005 race meetings and simulcasting. [A motion and the recorded vote of each Commissioner are required to go into and return from an Executive Session if the Commission opts to so deliberate in order to reach a final or intermediate Order in an individual proceeding.]

a. **Purpose of Executive Session**

This Executive Session is proposed for the purpose of continued deliberation regarding issuance/non-issuance of conditional organization licenses and allocation of race days for Calendar 2005 race meetings.

b. **Proposal for Executive Session**

[Requires motion and vote by the Commission, which motion must include the naming of persons requested to attend the Executive Session to assist Commissioners.]

c. **Vote to Reconvene in Open Session**

3. **ACTION**

**Continued Commission Consideration of and Possible Action on the Organization License Applications and the Issuance of Conditional Organization Licenses and Allocation of Race Days for Calendar Year 2005 Race Meetings**

Possible actions may include, but are not limited to: no action taken, grant or denial of an application, deferring consideration of an application, entrance of either preliminary or final Findings of Fact and Conclusions of Law, or the issuance of a preliminary or final Order.

C. **Consideration and Action, If Any, Deemed Appropriate by the Commission Regarding the Passage of SQ 712, the Gaming Act**

SQ 712, the State-Tribal Gaming Act, passed by a margin of 59.5% to 40.5% in the General Election held November 2, 2004. The Commission will consider issues related to the

implementation of its regulation of gaming at Remington Park, Blue Ribbon Downs and Will Rogers Downs as provided in the Act to include, but not be limited to:

1. Supplemental budget request regarding current FY-05 Budget Work Program and FY-06 Agency Budget Proposal Request submitted to the Office of State Finance and the Legislature October 1, 2004 for start-up funding and continued funding of machine gaming licensing and regulation.
2. Request for additional authorized FTE needed for machine gaming regulation.
3. Training of machine gaming regulatory personnel.
4. Acquisition of equipment, furnishings, and office space needed for machine gaming regulation.
5. Development of gaming license application rules, application forms, license application fee schedule and licensing process rules (Initial part of machine gaming rules). **Item C.1** contains some proposed OHRC license form materials and parallel forms from New Mexico and **Item C.2** contains some suggested related narrative rules.
6. Continuation of preparation of substantive machine gaming rules.
7. Request of the Legislature that the cap on the Executive Director's salary be increased in order to attract a new Executive Director with adequate background and experience.

**D. Consideration and Action, If Any, Deemed Appropriate by the Commission Regarding Proposed New Rule on Safety Rails as Requested by The Jockeys' Guild**

At the recent Convention of the North American Pari-Mutuel Regulators Association (NAPRA), of which Oklahoma is a member jurisdiction, representatives of The Jockeys' Guild made a presentation requesting that each of the member jurisdictions consider adopting a rule on safety rails as presented in the Pari-Mutuel Racing Model Rules document developed by NAPRA and the Association of Racing Commissioners International (RCI). **Item D.1** is the model rule.

**COMMISSION STAFF RECOMMENDATION:**

**That the Commission authorize publication in the *Oklahoma Register* for the December 15, 2004 issue and scheduling of a Public Hearing on Monday, January 24, 2005 regarding the proposed rule under permanent rulemaking procedures. This would allow the proposed new rule to be brought back to the February 17, 2005 Commission meeting with comments from the Public Hearing, if any, for Commission consideration of adoption with future effective date of perhaps CY 2006.**

**E. Consideration and Action, If Any, Deemed Appropriate by the Commission Regarding Recommendations from the Oklahoma-Bred Advisory Council**

The Oklahoma-Bred Advisory Council met on November 10, 2004 at which meeting the following recommendations were made:

**1. Funding Request from Remington Park**

**Item E.1** is a November 1, 2004 letter from Mr. Fred Hutton, Director of Racing at Remington Park (RP), requesting funding from the Oklahoma Breeding Development

Fund Special Account (OBDFSA) for added monies in the following stakes races for the CY 2005 Quarter Horse, Paint and Appaloosa race meeting at RP:

|                                     |          |
|-------------------------------------|----------|
| Oklahoma Paint Association Futurity | \$ 5,000 |
| Oklahoma Paint Association Maturity | \$ 5,000 |
| Cowboy Hall of Fame Handicap        | \$ 5,000 |
| Americana Appaloosa Futurity        | \$ 5,000 |
| Sooner State Stakes                 | \$25,000 |

The Advisory Council recommends approval of OBDFSA funding for the RP Quarter Horse, Paint and Appaloosa stakes races as follows subject to availability of funds and not exceeding the 20% policy regarding added money for stakes races:

Added monies of \$5,000 each for the Oklahoma Paint Association Futurity and Maturity, Cowboy Hall of Fame Handicap and Americana Appaloosa Futurity plus \$2,292 for broodmare awards and \$1,042 for stallion awards for a total of \$3,336 in OBDFSA funds for the four races (or \$8,334 for each race), and

Added monies of \$25,000 for the Sooner State Stakes plus \$11,458 for broodmare awards and \$5,208 for stallion awards for a total of \$41,666 in OBDFSA funds;

for a grand total of \$75,002.

2. Allocation of Oklahoma-Bred Registration Fees

Of the \$123,342 received in Oklahoma-Bred registration fees during the period of July 1, 2003 through June 30, 2004, the Advisory Council recommends the following allocations according to a formula provided by the Office of the State Auditor and Inspector (SA&I) by number of races by breed and percentage of total in-state races as shown in the chart (Item E.2):

|                         | <u>BREEDS</u>       |                      |                        | <u>TOTAL</u> |
|-------------------------|---------------------|----------------------|------------------------|--------------|
|                         | <u>Thoroughbred</u> | <u>Quarter Horse</u> | <u>Appaloosa/Paint</u> |              |
| <b><u>RACETRACK</u></b> |                     |                      |                        |              |
| Remington Park          | \$37,441.78         | \$16,525.00          | \$ 4,615.09            | \$ 58,581.87 |
| Blue Ribbon Downs       | 11,091.10           | 20,246.85            | 5,806.08               | 37,144.03    |
| Fair Meadows at Tulsa   | 10,197.86           | 12,282.09            | 5,136.15               | 27,616.10    |
|                         | \$58,730.74         | \$49,053.94          | \$15,557.32            | \$123,342.00 |

3. Funding Request from Blue Ribbon Downs

Item E.3 is a November 8, 2004 letter from Ms. Shirley Ellis, Racing Secretary at Blue Ribbon Downs (BRD), requesting funding from the Oklahoma Breeding Development Fund Special Account (OBDFSA) for added monies in the following 18 stakes races to be run during the two CY 2005 Mixed Breed race meetings at BRD:

|                                |        |
|--------------------------------|--------|
| <b><u>Thoroughbreds</u></b>    |        |
| Randy Bailey Memorial Handicap | \$ 500 |
| Ozark Hill Handicap            | \$ 500 |
| Glenda Perez Memorial Handicap | \$ 500 |
| Gene Stanley Memorial Handicap | \$ 500 |

**Thoroughbreds (continued)**

|                               |          |
|-------------------------------|----------|
| Jack Hammer Memorial Handicap | \$ 500   |
| Derby Day Handicap            | \$ 3,500 |
| Distaff Handicap              | \$ 500   |
| Judge Faulkner Handicap       | \$ 500   |
| Pocola Casino Handicap        | \$ 500   |
| McAlester Casino Handicap     | \$ 500   |

**Quarter Horses**

|                                      |          |
|--------------------------------------|----------|
| Oklahoma-Bred Quarter Horse Futurity | \$10,000 |
|--------------------------------------|----------|

**Paints**

|                        |        |
|------------------------|--------|
| Lorelei Paint Futurity | \$ 500 |
|------------------------|--------|

**Appaloosas**

|                            |        |
|----------------------------|--------|
| Oklahoma Frontier Futurity | \$ 500 |
| Supreme Futurity           | \$ 500 |

**Paints and Appaloosas**

|                                  |        |
|----------------------------------|--------|
| Greda McIntyre Memorial Handicap | \$ 500 |
| Durant Casino Handicap           | \$ 500 |

**All Breeds**

|                      |        |
|----------------------|--------|
| Iron Horse Handicap  | \$ 500 |
| Autumn 1000 Handicap | \$ 500 |

**The Advisory Council recommends approval of OBDFA funding for the BRD CY 2005 stakes races as follows:**

**Added monies of \$500 each for the 16 stakes races shown above with that figure plus \$143 for broodmare awards and \$71 for stallion awards for a total of \$11,424 in OBDFA funds for the 16 races (or \$714 for each race), and**

**Added monies of \$3,500 for the Derby Day Handicap plus \$1,000 for broodmare awards and \$500 for stallion awards for a total of \$5,000 in OBDFA funds for the race, and**

**Added monies of \$10,000 for the Oklahoma-Bred Quarter Horse Futurity plus \$2,857 for broodmare awards and \$1,429 for stallion awards for a total of \$14,286 in OBDFA funds;**

**for a grand total of \$30,710.**

**F. Any Matter Not Known About or Which Could Not Have Been Reasonably Foreseen Prior to Posting the Agenda**

**G. REPORTS**

**Status Report by Parties Regarding the Petition From Mr. John Lowder Requesting a Declaratory Ruling Concerning the Purse Distribution at Fair Meadows at Tulsa**

Mr. Lowder presents a Declaratory Ruling Petition regarding a complaint about purse distribution at Fair Meadows at Tulsa (FMT) for the Years of 1997, 1998, 1999 and 2000.

At the September 25, 2003 Commission meeting, the current status of the complaint was discussed by respective counsel for Mr. Lowder (Mr. Larry Brawner), Fair Meadows at Tulsa (Mr. Michael Keester) and the Oklahoma Horsemen's Benevolent and Protective Association (Mr. Daniel Hoehner), the latter of which is in the process of approving a Voluntary Dismissal to end its participation in the complaint. By a 5-0 vote, the Commission tabled consideration of the Request for sixty days to allow discussion time among the attorneys. A number of deferrals have ensued since the Commission's September, 2003 meeting.

At the May 6, 2004 Commission meeting, on request of the parties, the matter was deferred to the June meeting. The June meeting was cancelled, and the attorneys advised the Commission of their preference to delay the status report until the location of the Commission meetings returned to Oklahoma City in September, 2004.

At the September 23, 2004 Commission meeting, Mr. Ron Shotts, Director of Racing at Fair Meadows at Tulsa, advised the Commission that the parties had reached agreement to dismiss and that the Commission would be receiving dismissal documents by its next Commission meeting or, in the alternative, he would be responding otherwise. The Commission cancelled the October, 2004 meeting. As of the printing of this agenda, no document concerning the case has been received.

**H. ANNOUNCEMENTS ..... Mr. Bayliff, Chair**

1. Blue Ribbon Downs' second CY 2004 Mixed Breed race meeting concluded on Monday, November 8, 2004.
2. Remington Park's CY 2004 straight Thoroughbred race meeting is scheduled to conclude on Sunday, December 5, 2004.
3. The next Commission Meeting is scheduled for Thursday, December 16, 9:30 a.m., at the Activity Center at Shepherd Mall. The published deadline for receipt by the Commission office of requests for agenda consideration for the scheduled meeting is December 7, 2004.
4. The next regularly scheduled Oklahoma-Bred Advisory Council meeting is set for 11:00 a.m., Wednesday, January 12, 2005 at the Shepherd Mall Activity Center in Oklahoma City.

**I. Consideration and Action, If Any, Deemed Appropriate by the Commission Regarding Hearing on Claims from Michael Rhodes and Cecil Blevins, Claimants, for Payment of a Pari-Mutuel Wager by Remington Park**

Both Mr. Michael Rhodes and Mr. Cecil Blevins have filed a written, verified claim to be paid the winnings from Pari-Mutuel Ticket 9792-46398-11140, dated August 11, 2004, on the 7<sup>th</sup> Race at Suffolk Downs, in the amount of \$1,472.70. Because of the multiple claims, Remington Park has

withheld payment. Under Commission *Rules of Racing* Rule 325: 65-1-37, Claims for Payment from Pari-Mutuel Pool, the Commission adjudicates such disputes, the Commission has set a Hearing at its November 18, 2004 Commission meeting to afford the Claimants, Mr. Rhodes and Mr. Blevins, an opportunity to present their claims. In adjudicating such matters, the Commission may order payment of a claim from the pari-mutuel pool or by the organization licensee, or may deny the claim, or may make such other order as it may deem proper.

**Item I.1** is a September 12, 2004 Pari-Mutuel Claim from Mr. Michael Rhodes regarding his claim for payment of a pari-mutuel wager. **Item I.2** is a September 28, 2004 Pari-Mutuel Claim from Mr. Cecil Blevins regarding his claim for payment of a pari-mutuel wager. **Item I.3** is the October 25, 2004 Notice to Appear from the Commission to the two Claimants and Remington Park. **Item I.4** is the Notice to Appear resent November 4, 2004 to Mr. Rhodes (with a corrected address).

The Hearing before the Commission will be conducted pursuant to the authority and jurisdiction of the Administrative Procedures Act, Title 75, §301 et seq., the Oklahoma Horse Racing Act, Title 3A O.S. §200 et seq., OAC 325 (OHRC *Rules of Racing*), and in particular Chapter 65. The procedure for hearing the complaint is as follows:

1. Each Claimant is entitled to be present and to present evidence, witnesses and arguments in support of his claim, and, may do so through counsel, if desired.
2. Each Claimant will be allowed ten (10) minutes to present his claim.
3. Claimant Rhodes, who currently possesses the winning ticket, will present his case first, with Claimant Blevins proceeding next.
4. Each Claimant will also be afforded an opportunity to cross-examine any witnesses testifying in support of the opposing claim.
5. Both Claimants and persons giving testimony are subject to questioning by Commissioners, Commission staff members and Commission legal counsel.
6. If desired, the organization licensee, Remington Park, may present evidence, witnesses and arguments to demonstrate that any payment due, if any, should be paid from the pari-mutuel pool and not paid otherwise by Remington Park.

**Commission Deliberation Regarding Hearing on Claims from Michael Rhodes and Cecil Blevins, Claimants, for Payment of a Pari-Mutuel Wager by Remington Park**

Deliberation may take place in Open Session, or if the Commission desires, may take place in Executive Session. If the Commission elects to conduct deliberation in Open Session, no motion to do so is necessary. If the Commission desires to conduct deliberation in Executive Session, it will vote to do so.

**Possible Executive Session For Purpose of Commission Deliberation Regarding Hearing on Claims from Michael Rhodes and Cecil Blevins, Claimants, for Payment of a Pari-Mutuel Wager by Remington Park**

Pursuant to 75 O.S. §312, 25 O.S. §307(B)(8), and §311(B), a separate Executive Session is proposed for deliberation regarding claims from Mr. Michael Rhodes and Mr. Cecil Blevins, Claimants, for payment of a pari-mutuel wager. [A motion and the recorded vote of each Commissioner are required to go into and return from an Executive Session if the Commission opts to so deliberate in order to reach a final or intermediate Order in an individual proceeding.]

1. **Purpose of Executive Session**

This Executive Session is proposed for the purpose of deliberation regarding a claim from Mr. Michael Rhodes and Cecil Blevins, Claimants, for payment of pari-mutuel wagers by Remington Park.

2. **Proposal for Executive Session**

**[Requires motion and vote by the Commission, which motion must include the naming of persons requested to attend the Executive Session to assist Commissioners.]**

3. **Vote to Reconvene in Open Session**

4. **Commission Consideration of and Possible Action**

Possible actions may include, but are not limited to: no action taken, continuation of deliberation, or entrance of either preliminary or final Order.

J. **Consideration and Action Deemed Appropriate by the Commission Regarding the Retirement and Resignation of the Commission Executive Director and Hiring of New Executive Director**

On October 29, 2004, Mr. Gordon Hare, OHRC Executive Director, submitted a letter of retirement and resignation to be effective February 1, 2005. The Commission may conduct an Executive Session to consider this personnel matter and subsequently take action to address filling the position.

**Possible Executive Session For Purpose of Discussing the Retirement and Resignation of the Commission Executive Director and Hiring of a New Executive Director**

Pursuant to 25 O.S. §307(B)(1) and §311(B), a separate Executive Session is proposed for deliberation regarding the retirement and resignation of the Commission Executive Director and discussing the hiring of a new Executive Director. [A motion and the recorded vote of each Commissioner are required to go into and return from an Executive Session if the Commission opts to discuss these matters in Executive Session.]

1. **Purpose of Executive Session**

This Executive Session is proposed for the purpose of discussing the retirement and resignation of the Commission Executive Director and hiring of a new Executive Director.

2. **Proposal for Executive Session**

**[Requires motion and vote by the Commission, which motion must include the naming of persons requested to attend the Executive Session to assist Commissioners.]**

3. **Vote to Reconvene in Open Session**

4. Commission Consideration of and Possible Action

Possible actions may include, but are not limited to: no action taken, decision to invite particular individuals to apply for the position, advertising locally or nationally to fill the position, and/or taking steps to fill the position on an interim basis.

ADJOURNMENT .....Mr. Bayliff, Chair