

TOWN OF BOGUE
COUNCIL MEETING
May 19, 2025

The Town Council of Bogue met on Monday, May 19, 2025, at the Bogue Town Hall, 121 Chimney Branch Road.

Mayor Robert O'Chat called the meeting to order at 6:00 p.m. After the Pledge of Allegiance, Councilmember Crose led a prayer.

Council members present; Mayor O'Chat, Albert Taylor, John Dale, David Padgett, Mike Crose and Allison Cannon. Also, present; Town Clerk Barbara Owens, and Town Attorney Donna Boggs.

Agenda

Council Member Dale made a motion to accept the agenda. Council Member Padgett seconded. Motion passed unanimously.

Minutes

Council member Crose made a motion to approve the April 14, 2025, regular meeting minutes Council member Cannon seconded. Motion passed unanimously.

Citizen Comments

Richard and Margaret Chapman, 315 Live Oak, Newport; advised that they wished to clarify the request that originally it was for 2 days per month and that it was their mistake to request 20 days per month. Mrs. Chapman read the contents of attachment (1) aloud. Councilmember Cannon asked for clarification that the request is now two (2) times per month, Mr. Chapman confirmed two (2) times per month.

Ray Bihary of 104 Bayview Ct., Bogue, advised that he could hear the music from Emerald Isle at his house and the Hunting Bay dock. He would like the music to be closer by.

JoAnne Parker of Chimney Branch Rd., Bogue, said that she likes outdoor music but not when it is too close to homes. If allowed this opens up all to do the same thing.

Mitch Layko of 318 Barrington Ridge, Bogue thought that 2 days per month is reasonable.

Out of Citizen Comments at 6:19 p.m.

Attorney Boggs advised that she would respond to the attorney's letter (attachment 1). Attorney Boggs also advised that there are other considerations to the SUP; and the mayor does not vote on the Town Council with the exception of a tie.

Mayor O'Chat said the SUP currently before the council is for twenty (20) times per month. Mayor O'Chat read the introduction to the Code of Ordinance book and stated that it was the desire of the town to remain a residential community and the ordinances were written with that in mind.

Unfinished Business

None

New Business

Mayor O'Chat said the new business is to allow outdoor entertainment which has conditions to be met, if not met it does not need to be allowed. Health, safety, nuisance, and property value are a few of the conditions. All the neighborhoods were here first; residents were here first. Distillery was permitted under an SUP. At that time, there were concerns about noise and odors, the SUP took seven (7) months. In 2023 an application (SUP) was made for indoor entertainment. The Planning Board and Town Council met and the condition was to keep the noise inside the building. It was originally permitted as a distillery, retail sales and a museum; no mention of entertainment. The SUP has to consider the area around the distillery; the businesses close at 5:00 p.m.

Council member Crose said that two (2) times per month as a condition is a reasonable request.

Mr. Chapman (from the audience) advised that the music ends at 10:00 p.m.

Attorney Boggs said the council can limit the number of times per month.

Council member Crose asked what is the vision of the distillery?

Mr. Chapman said he has fifteen (15) employees; he pays quite a bit in liquor taxes and that he has been improving the site. He wants to have other buildings. Many people come to the distillery and would like to move all inside later into a bigger building.

Attorney Boggs asked how they would police it; the Sheriff has other things to respond to. To be clear you are now asking for two (2) times per month?

Mr. Chapman said two (2) times per month only.

Attorney Boggs said the stated request for outdoor entertainment is vague.

Mr. Chapman said music only, we have a better, mature clientele.

Mayor O'Chat said there are other things; buffering not up to date, septic not up to date.

Attorney Boggs stated there is an issue with the noise ordinance that was changed in 2023, amplification of sound/music/etcetera is prohibited; issues with permit as filed. Imposes a burden on a town without a police force.

Mr. Chapman said he would hire a deputy. We are good neighbors. We pay a lot of taxes. The Septic is correct and buffering is good.

Mayor O'Chat said he did not see a septic permit.

Mr. Chapman said the septic permit is correct.

Mayor O'Chat stated that the current permit on the table is for twenty (20) times per month. This is not a good venue with all the people here.

Council member Crose added it can be conditioned.

Mr. Chapman said I have the original permit, two (2) times per month. We want to use that one for two (2) times per month. Septic is working properly.

Council member Crose said two (2) times per month can condition the permit, make sure they are following the rules.

Council member Cannon the letters from the neighbors to not approve.

Attorney Boggs said three (3) letters for outdoor entertainment and eighteen (18) against outdoor entertainment.

Mayor O'Chat asked for someone to make a motion.

Council member Dale said deny twenty (20) days per month and come back next month.

Attorney Boggs said you can impose conditions on the permit.

Mr. Chapman said the original SUP was discussed with Herbert Page; we used to have meetings there. When Mr. Page died, I was told I would not get what I wanted. There is an election coming up. This will go to the media. We want one (1) year. If there are complaints they need to file with the Sheriff's office. It is a family place.

Council member Crose made a motion to continue this at the next meeting.

Council member Dale asked who is going to police it; we do not have a police department.

(there was no second to Council member Crose's motion)

Council member Dale made a motion to deny the permit as it is.

Council member Taylor seconded the motion.

Council member Cannon agrees to not approve of it, too much impact and not what the majority want.

Motion passed four (4) to not approve the SUP and one dissenting vote cast by Council member Crose.

Council member Dale made a motion to approve the draft budget.

Council member Crose seconded the motion, and the motion carried unanimously.

Department Reports

Finance: Mayor O'Chat stated total cash funds are \$660,075.92.

Budget: Clerk Owens stated that Property Taxes, Motor Vehicle Taxes and Local Sales Tax are paid throughout April.

Planner: Clerk Owens stated that she approved two permits; Hilltop Road for a pool and Hwy 24 for a storage building.

ILA: Councilman Dale stated Western Carteret approved their budget. Everything at Town Hall is good.

Streets: None

Emergency Manager: None

Town Hall: None

Events: Council member Cannon stated that the Bogue Day committee is moving along and the plans look good

Miscellaneous Reports/Announcements

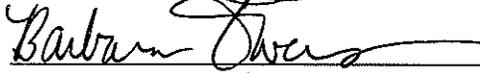
none

Adjournment

At 7:05 p.m. Council member Cannon made a motion to adjourn. Council member Padgett seconded. Motion passed unanimously.



ROBERT O'CHAT, MAYOR



BARBARA OWENS, TOWN CLERK



Bogue Sound Distillery – Town Council Talking Points

Town of Bogue – SUP/CUP Application

Monday May 19, 2025

Evidence to Support Request for Special Use Permit

- There is clear evidence of the appropriateness of this request
 - 1. The property is zoned B-1, which allows outdoor entertainment as a special use (and is evidence of its appropriateness)
 - 2. There is dense buffering to the rear of the site (to prevent/limit any adverse impacts to the residential properties)
 - 3. This property adjoins a RV dealership and a restaurant, emphasizing the appropriateness of the request
 - 4. The outdoor music will be towards the road and away from the residential properties
- This is sufficient and material evidence that meets the requirements of the ordinance
 - Absent any evidence presented by a third-party to the contrary, the Board is required, by law, to issue the permit

Violation of the Open Meetings Laws

- Town of Bogue and Town of Bogue Planning Board flagrantly violated the North Carolina Open Meetings laws at its April 10, 2025 meeting
 - At that meeting, the Planning Board went into to closed session for alleged "attorney-client" privilege reasons related to the Special Use Permit request for Bogue Sound Distillery for outdoor music
 - The Town of Bogue admits this in an e-mail from Shawne Southard dated April 14, 2025, in which Mr. Southard states:
 - Good morning, Mr. Chapman, Just a quick note to let you know the Planning Board **met on Thursday, April 10th at 6:00 p.m. for a closed session meeting of attorney client privilege. The Planning Board. came out of the closed session meeting, and voted four to one, to not recommend the Special Use Permit for outdoor music at the Bogue Sound Distillery**
 - Immediately after coming out of closed session, the Planning Board voted to deny the Special Use Permit by a vote of 4-1, indicating that the Town clearly conducted deliberations in violation of the Open Meetings laws
 - North Carolina law expressly forbids general policy matters from being discussed in closed session – which includes the consideration of a request for SUP (that is not a privileged matter, but is a matter of general policy and required to be conducted in an open meeting).
 - This violation of state law and failure to conduct this deliberation and hearing in an open meeting exposes the Town to liability under North Carolina law, including attorneys' fees as allowed by statute, including

potential assessments to individuals responsible for the violation of the open meetings laws.

Potential Conflict of Interest Issue

- Mayor serves on multiple board – Town Council and the Planning Board/Board of Adjustment
 - One issue is that the Planning Board makes recommendations to Town Council, which the Mayor also then serves on for final decisions
- There are also potential issues should Town Council disagree with a decision by the Planning Board/Board of Adjustment and seek to appeal it
 - Mayor is on both sides of that decision and risks the interests of the Town
- It is also my understanding that the Mayor has engaged in ex parte communications and discussions regarding the merits of this request, which is not permitted by the ordinance or North Carolina law
 - Additionally, given that the Mayor owns an adjacent property and based upon his prior comments, there is an apparent conflict of interest

ND:4912-1894-6628, v. 4

Town of Bogue
Notice of Public Hearing

The Town of Bogue's budget for FY 2025-26 has been submitted to the Town Council and a copy is available for public inspection at Bogue Town Hall, 121 Chimney Branch Road, Bogue. The Town Council will hold a Public Hearing on the budget at 6:00pm, June 16, 2025, at the Town Hall.

Barbara Owens
Town Clerk

TOWN OF BOGUE NOTICE OF PUBLIC HEARING

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