

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 **ORDINANCE # 446**

4 _____
5
6 **Relating to siting of ocean wave energy facilities; creating new provisions; and declaring an**
7 **emergency.**
8 _____

9
10 Whereas ocean wave energy is a renewable power source with a great potential to
11 reduce our dependence on oil and other fossil fuels; and

12 Whereas the Oregon Coast is particularly well-suited for the development of ocean
13 wave energy; and

14 Whereas the technology for harnessing ocean wave energy is rapidly evolving in many
15 locations, including Scotland, Portugal, and here in Oregon; and

16 Whereas the Lincoln County Board of Commissioners strongly supports the
17 development of this technology for its global benefits, as well as its potential for local
18 economic development; and

19 Whereas, however, the siting of wave energy facilities in the ocean has a potential for
20 direct conflict with other important uses of ocean resources; and

21 Whereas, unfortunately, the only current process for the siting of wave energy
22 generators in the ocean is Part 1 of the Federal Power Act, which is primarily designed for the
23 siting of dams on rivers; and

24 Whereas that process does not require advance local planning to avoid unnecessary
25 conflict with other ocean uses; and

26 Whereas agencies of the federal government are themselves in disagreement regarding
27 who has jurisdiction and control over the siting of ocean wave energy facilities in the outer
28 continental shelf; and

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 Whereas recent applications to the Federal Regulatory Energy Commission under the
2 current process highlight these deficiencies and disagreements; and

3 Whereas it appears the use of the current process is destined for conflict; and

4 Whereas that conflict may slow the process of developing this important and
5 innovative technology; and

6 Whereas providing for advance planning for the siting of ocean wave energy facilities
7 in order to mitigate and minimize adverse impacts on other important uses of ocean resources
8 is therefore a matter of critically important local concern; and

9 Whereas the Lincoln County Board of Commissioners previously established an *ad*
10 *hoc* Committee (entitled “Fisherman Involved in Natural Energy,” or FINE) to assist Lincoln
11 County with the siting of ocean wave energy facilities under Lincoln County’s own
12 application to the Federal Energy Regulatory Commission (FERC) for a preliminary permit;
13 and

14 Whereas the FINE Committee can assist in developing a comprehensive plan for siting
15 ocean wave energy parks to avoid or mitigate adverse impacts on other important uses of
16 ocean resources, as well as reviewing individual ocean wave energy permit applications for
17 mitigation of adverse impacts on other important ocean uses; now, therefore,

18 The Lincoln County Board of Commissioners ordains as follows:

19 **SECTION 1.**

20 Sections 2 through 4 of this Ordinance are added to and made a part of LCC Chapter
21 2, as indicated.

22 **SECTION 2.**

23 **2.4105 Establishment of FINE Committee**

24 **(1) There is hereby established a Fishermen Involved in Natural Energy (FINE)**
25 **Committee, consisting of between 7 and 19 members appointed by order of the Lincoln**
26 **County Board of Commissioners.**

27 **(2) Committee members shall be appointed to represent the spectrum of fisheries**
28 **potentially impacted by the siting of ocean wave energy facilities.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 (3) Committee members serve at the discretion of the Board, or until a member
2 resigns, or until the Committee is disbanded by the Board as having completed it
3 purposes.

4 (4) In addition to the duties set forth in LCC 2.4110 to 2.4115, the FINE
5 Committee shall carry out other duties as identified by order of the Board.

6 **SECTION 3.**

7 **2.4110 Duties of FINE Committee Relating to Review of Ocean Wave Energy**
8 **Facility Permit Applications**

9 (1) The FINE Committee shall review all applications for a permit or preliminary
10 permit or similar applications, licenses or other approvals for the siting of ocean wave
11 energy facilities in the territorial sea or outer continental shelf adjacent to Lincoln
12 County. Permits or preliminary permits include, but are not limited, any similar actions
13 before federal or state agencies claiming jurisdiction over siting of ocean wave energy
14 facilities.

15 (2) The Committee shall make recommendations to the Board of Commissioners
16 relating to whether the Board should support, support with modifications, oppose, or
17 take other action relating to each ocean wave energy facility application reviewed by the
18 Committee.

19 **SECTION 4.**

20 **2.4115 Duties of FINE Committee Relating to Comprehensive Planning for the**
21 **Siting of Ocean Wave Energy Facilities**

22 (1) The FINE Committee shall develop a comprehensive siting plan for ocean
23 wave energy facilities in the territorial sea and outer continental shelf adjacent to
24 Lincoln County. The comprehensive siting plan shall establish areas for wave ready
25 parks that are sited to avoid or mitigate potential adverse impacts on other important
26 uses of ocean resources.

27 (2) The plan shall be submitted to the Lincoln County Board of Commissioners for
28 review and approval.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 **(3) Once approved by the Board, the plan shall help guide the Board in making a**
2 **determination to support, support with modifications, oppose, or take other action**
3 **relating to all ocean wave energy facility siting applications for areas of the ocean**
4 **adjacent to Lincoln County.**

5 **(4) At the request of the Board, or on its own initiative, the Committee may**
6 **recommend modifications or updates to the plan.**

7 **(5) Upon a recommendation of the Committee, or on its own initiative, the Board**
8 **may modify or update the plan.**

9 **SECTION 5.**

10 This Ordinance being necessary for the immediate preservation of the public peace,
11 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its
12 passage.

DATED this 28th day of February, 2007.

LINCOLN COUNTY BOARD OF COMMISSIONERS

/s/ Bill Hall

Bill Hall, Chair

/s/ Terry N. Thompson

Terry N. Thompson, Commissioner

/s/ Don Lindly

Don Lindly, Commissioner

ATTESTED TO:

/s/ Judy Eames

Judy Eames, Recorder

APPROVED AS TO FORM:

/s/ Wayne Belmont

Wayne Belmont, County Counsel

J:\LC\RBOVETT\Ordinances\446.doc