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STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

WALTER E. WHITCOMB
COMMISSIONER

BOARD OF PESTICIDES CONTROL

**August 15, 2018
1:00 PM**

Mather Auditorium, Wells Reserve at Laudholm
342 Laudholm Farm Rd, Wells, Maine

MINUTES

Present: Bohlen, Granger, Jemison, Morrill, Waterman

1. Introductions of Board and Staff

- The Board, and Staff introduced themselves
- Staff Present: Bryer, Chamberlain, Connors, Couture, Meserve, Patterson, Pietroski

2. Minutes of the July 13, 2018 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or Approve

- **Granger/Bohlen: Moved and seconded approval of minutes as amended**
- **In Favor: Unanimous**

3. Consideration of Consent Agreement with Mainely Ticks, Windham

The Board's Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involves an unauthorized application.

Presentation By: Raymond Connors, Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

- Connors stated Mainely Ticks made an application to a property in Sanford. The company had a contract with the previous owner who had sold the house over the winter. Mainely Ticks was unaware the house had been sold. The applicator called the residence and left a message. No reply was received but the applicator came to the residence and made the application the following day anyway. Mainely Ticks did self-report the incident and the new owner called to report it as well. The consent agreement was for \$500 and Mainely Ticks has paid it.
- Bohlen asked if Connors took into consideration that the company self-reported.
- Connors stated it is a requirement of the company to report this type of incident as soon as they are aware, but he did take the self-reporting into consideration.
 - **Jemison/Waterman: Moved and seconded approval of consent agreement**
 - **In Favor: Unanimous**

4. Correspondence

- a. Email and attachments from Riley Titus, Responsible Industry for a Sound Environment (RISE) received July 10, 2018
- b. Email and attachments from Riley Titus, RISE, received August 2, 2018
 - Titus was present and told the Board he felt that integrated pest management (IPM) was lacking in many of the ordinances being passed. He asked the Board what they, the IPM Council, and UMaine Cooperative Extension were doing in regards to education and outreach throughout the state. Titus proposed a resolution to the Board that restates the Board's duty to IPM. He encouraged the Board to adopt this resolution.
 - Randlett told the Board that from a legal perspective he does not recommend the Board adopt the resolution. He added that IPM is a goal of the state, written in statute, not a policy. The state policy is to minimize reliance on pesticides.
 - Titus stated his main concern was the removal of the freedom of choice. He added that any homeowner or business that might service properties are now limited on how they can maintain those properties. Titus stated that he wants individuals to have all tools available to them once the steps of IPM have been conducted.
 - Jemison asked what percentage of those companies use the steps of IPM before they spray a lawn or a property. He added that it seems IPM is almost never used, applications are generally made on a calendar basis, and the whole concept of contract lawncare and IPM does not add up.
 - Granger stated he thought the issue was larger than contract lawncare. There are certain standards some property owners want their property kept to and they should have the ability to control and maintain their landscape how they wish.

- Morrill added that the issue also extends to hobby gardeners and florists and the ordinances are limiting what businesses can do.
 - Bohlen stated that the Board is not a legislative body and he is troubled at the thought that locally elected officials could have their decisions overturned by a Board like us. He added that he disagrees with Titus and does not feel the ordinances are undercutting IPM.
 - Randlett summarized a case in which Central Maine Power had challenged the town of Lebanon for creating an ordinance that put restrictions on the use of pesticides in their town. The Maine Supreme court sided with the town. Randlett submitted the case file as part of the Board packet for today's meeting. He added that the options for a person who wanted to challenge a town ordinance would be to do so in court or go to the legislature.
- c. Email and attachments from Karen Snyder, Portland

Break for public listening session (2:00pm) (see notes below)

5. Other Items of Interest

- a. Central Maine Power Co. v. Town of Lebanon, 1990 (submitted by Mark Randlett, Assistant Attorney General)
- b. Staff memo re pesticide self-service sign
 - **Morrill/Jemison: Moved and seconded to authorize staff to spend \$500 for graphic design work**
 - **In Favor: Unanimous**
- c. Worker Protection Standard updated brochures
 - Patterson presented three Worker Protection Standard, WPS, brochures that were created by staff for education and outreach. The brochures will be going to print within the next month.
- d. Variance permit issued to Mark Eaton for control of invasive phragmites in York
- e. Variance permit issued to Piscataqua Landscaping and Tree Service for control of invasive buckthorn, honeysuckle, and bittersweet in Shepard's Cove, Kittery

6. Schedule of Future Meetings

October 5, 2018, November 16, 2018 and January 16, 2019 are proposed meeting dates. The January meeting will be at the Agricultural Trades Show and will include a Public Listening Session.

- Chamberlain asked the Board about conducting an information gathering session to obtain public input regarding drones and staff outreach. She asked if they would like to do this at a fall meeting.

- Bohlen stated that there are currently rules in place that could function for drone applications. Patterson commented that the rules allowing applicators to do aerial applications are limited to commercial applicators only.
- Jemison added that this technology is quickly evolving.
- Bohlen stated it is not clear whether there is enough predictability to have a public information gathering session at this time.
- Morrill suggested holding an information gathering session at the Annual Agricultural Trade Show in January 2019.

7. Adjourn

- **Granger/Bohlen: Moved and seconded to adjourn at 3:11pm**
- **In Favor: Unanimous**

Notes from Public Listening Session

- Jody Spear told the Board she has followed the Portland ordinance through several stages and is impressed with the progress they have made. The committee recognized that IPM had come to be simply spraying without going through the first steps, so they voted to employ organic plant management. Spear added that pesticides have deleterious effects on humans and ecosystems, and this ordinance is a way of showing there is a preferred method for taking care of pest problems.
- Heather Spalding stated she was encouraged by the discussion today and that there are wonderful possibilities before us that are better for animal and human health. She added that she does not feel IPM and ordinances are mutually exclusive. Spalding told the Board that moving forward she would like the lines of communication to remain open and wants people to talk with each other.
- Spalding asked the Board three questions:
 1. How do submissions make it to the Board packet and how they are then taken up for business? She stated that it appeared as though a couple submissions received special attention.
 2. How is it determined which agricultural operations will receive unannounced visits from an inspector?
 3. Referencing Gary Fish's graphic about the increase in the use of pesticides, what are the Board's thoughts on gathering information on the volume of pesticides purchased and used in the state?
- Spalding closed by telling the Board that Maine Organic Farmers and Gardeners Association (MOFGA) wants to continue to be at the table and to be of assistance.

- Bohlen asked Randlett if it was appropriate to respond to the questions and was answered in the affirmative.
- On the issue of how correspondence is added to the packet, Chamberlain stated that all correspondence received before the deadline used to go into the agenda under “Other Old or New Business”, but now it is being added under “Correspondence” to keep it together and separate from other agenda items. The deadline to be added to the agenda is 8:00am three days before the meeting. Chamberlain explained that if anyone responds to the agenda once it is released then that goes out late so it is sent to the Board but not placed on the agenda. She added that staff do not make the decision when someone writes and asks to be on the agenda; staff forward it to the Board and they make that decision.
- Spalding replied that one specific incidence was regarding a few letters complaining about the ordinances. The authors of the letters did not come to the meeting but the letters were pulled out for fodder for discussion. Spalding asked the Board the process for that versus other submissions that are not discussed.
- Bohlen responded that it can be informal how they run their meetings and what they might be interested in and discuss. He added that the Board will try to be more mindful of that in the future.
- Connors explained considerations for how non-complaint initiated inspections are conducted. He stated that each year Board staff must fill out a projection form detailing how many of each type of inspection will be done in the upcoming year. Connors stated the inspectors are afforded quite a bit of autonomy in where they conduct routine inspections. However, they do try to factor in inspections where environmental consequences may be greater.
- Jesse O’Brien is a member of the Pest Management Advisory Committee (PMAC) that assisted in drafting South Portland’s pesticide use ordinance. He told the Board that South Portland is having a kick-off party for the ordinance on September 29, 2018 at 9:00am. O’Brien asked if members of the Board or the IPM Council could have a table for outreach there.
- Morrill asked staff to attend.
- Patterson responded to Spalding’s question regarding tracking sales and use of pesticides in Maine. Patterson explained that there were inherent problems with the data that was used in the past and Fish gave a presentation on that topic at a past Board meeting. She suggested that anyone interested in the graphic read the minutes from the meeting with Fish’s explanation of the data collection process. Patterson added that staff is receiving annual use and sales reports, but is not currently compiling data as most annual reports received are hand printed and data correction/verification is often required and difficult. Another challenge is that the approximately 12,000 Maine registered pesticides are not static, with approximately 1,000 products lost and gained annually. Any database designed to handle the data would need to be updated annually.

- There was discussion about a possible requirement stating applicators must submit their data digitally in a usable format.
- Morrill thanked all members of the audience who spoke during the public forum.