Mr. Cloutier called the meeting of the Board of Assessment Review to order at 7:00 p.m. The first order of business was to elect a Chair and Secretary for the Board.

Margaret Johnson made a motion to nominate Paul Cloutier as Chair and Timothy Hubbard as Secretary. Susan Hasson seconded the motion. Motion passed 5-0.

Mr. Cloutier then welcomed everyone to the meeting, reminded people this is a public proceeding and the public has the right to hear everything unless the Board goes into Executive Session. Mr. Cloutier asked if there was anyone present with a conflict of interest. Seeing none, he then proceeded with Item #2, the Tax Abatement Appeal of Portland Pipe Line Corporation for properties:

- Tax Map 6, Lot 4
- Tax Map 38, Lot 59
- Tax Map 4, Lot 6
- Tax Map 5, Lot 71
- Tax Map 6, Lot 6
- Tax Map 25, Lot 285
- Tax Map 34, Lot 6
- Tax Map 7, Lot 2D
- Tax Map 7, Lot 2E
- Tax Map 31, Lot 4
- Tax Map 9, Lot 297A
- Personal Property (Account ID NO. 8378)
Mr. Jonathan Block, attorney for Portland Pipe Line’s Tax Abatement Appeal, thanked the Board for its time. He noted the appraisal is not complete as the appraiser is in Italy and PPL’s intent is to save the appraisal for the State Board as he is sure whomever loses tonight will be appealing to the State Board. Mr. Block went on to say the evaluation of the assessed 11 properties and the one (1) personal property account for $44,000,000 dates back to the mass Citywide evaluation in April of 2006. He acknowledged there was an across the board reduction in 2009 and then again in 2010. Mr. Block noted at the time of the 2006 valuation model there was no Clear Skies Ordinance taken into account. Mr. Block alluded to the fact the number of tanker arrivals between 2012-2016 is approximately 14% of arrivals of 2012 alone and only six (6) tankers in 2017. He testified out of 23 tanks, only nine (9) are in service and the 18” main pipeline (listen to tape to get details)

Mr. Block noted the economic obsolescence (loss of value outside of the property itself) and the change in industry since 2012 has lessened the value of the property. He noted the loss in value includes flow from either direction. Mr. Block submitted the PPL was also requesting a 706A ruling (Assessment of Taxes) in PPL’s favor as the reason the Assessor was requesting the 706 was because he was given too much information thus unable to determine what information was actually responsive to the appeal before the Board. Mr. Block continue by asking the Board to review questions 32, 33, 34, 35 36 and 39. He noted the difference between questions 32 and 33 was one word; changing out “feasibility” to “engineering”; the difference between question 34 and 32 and 33 changed out “alternative” uses vs “current”. Mr. Block testified the Assessor’s questionnaire consisted of 54 questions and noted most of the questions were duplications with slight variations as noted above. He stated PPL submitted over 14,000 documents in response to the questionnaire. Mr. Block continued the Law states a 706 ruling can only be found if the applicant refuses or neglects to answer the inquiries. He asked the Board resolve the matter on the merits and find PPL’s right to appeal is not barred and, the assessment is ten years old.

Attorney Plouffe, asked Mr. Block if this appeal included a Personal Property account as well as the real property and if this was the first abatement request in recent years.

Attorney Block affirmed this appeal included a Personal Property Account and that this is the first request in years.

Mr. Cloutier asked if the PPL had a particular abatement amount in mind.

Mr. Block said yes.

Mr. Cloutier, then asked the amount?

Attorney Block responded based on the temporary appraisal $18,000,000.
Ms. Johnson questioned if PPL does not present evidence to the Board then it would not be able to present it at the State level either.

Attorney Block stated this was not true and the reason behind presenting to the State and not the local board was to present once not twice and, the State is more sophisticated when hearing appeals over $1,000,000.

Ms. Johnson asked if the abatement amount was due to the Clear Skies Ordinance.

Attorney Block noted it is a restricted appraisal and cannot be given to the public.

Ms. Hasson asked regarding the 706 argument if the draft appraisal was given to the Assessor.

Attorney Block responded yes. He continued there is nothing missing in the documents provided to the Assessor.

Ms. Hasson asked how the Clear Skies Ordinance effected the appraisal of the property.

Attorney Block noted the answer is in the documents.

Ms. Field asked if it was the Clear Skies Ordinance reduced the value of oil or was it economics.

Attorney Block responded economics; supply and demand not there and with no alternative to reverse the flow devalued the property.

Mr. Hubbard asked if the draft appraisal submitted was unsigned.

Attorney Block responded yes, it was unsigned. When the appraisal is complete, it will be signed at that time.

Attorney, Daggett submitted PPL did not prove its case it was substantially over assessed or unjust. She went on to say there are six (6) other petroleum facilities in South Portland assessed in the same manner. Attorney Daggett continued if you look at Assessor’s exhibit B, page 8, the applicant’s responses consist of “Responsive documents are being provided on the enclosed USB.” There were no hard copies received by the Assessor only the two (2) flash drives and a large portion of the information was the City’s response to the applicant’s RTK request; Attorney Daggett also noted some of the information included on the USB drive were newspaper articles. Attorney Daggett continue there were over 14,000 documents all password protected, all needing to have the password put in individually to open, the Assessor was unable to print the documents nor was he able to conduct a search with the pdf documents. She also noted the request was to drop the $44,000,000 dollar assessment to $26,000,000 is based on a draft, unsigned appraisal with no evidence to support the request. Attorney Daggett continued the response to question 3 in the May 12, 2017 letter regarding copies of any and all
draft appraisals of the Property conducted within the past five years stated “PPLC will provide the completed appraisal, and all supporting data, at the time specified by the State Board of Property Tax Review if this case reaches that Board.” Attorney Daggett offered PPLC clearly wants to go straight to the State Board and not present any information to this Board to make a decision. If the applicant were serious with its request, they would work with the Assessor. They want to go to the State Board. She did acknowledge again that the City does have an unsigned draft appraisal but no supporting documents.

**Mr. Cloutier** asked if the taxpayer has paid the City its taxes.

**Mr. Thomas** responded yes.

**Mr. Cloutier** discussed the 706 issue. If the property owner does not provide the Board with information needed to make a decision, then the inference is the taxpayer made bad effort to supply the needed information. He feels this is a formality.

**Attorney Daggett** noted the applicant should have requested a postponement to get the full appraisal.

**Mr. Cloutier** noted he does not have sufficient information to value the property(ies). He then went on to ask if the Assessor ever received the password for the protected documents.

**Mr. Thomas** responded yes.

**Ms. Hasson** asked why all the names of the persons responding to the request were not supplied.

**Mr. Plouffe** noted you can say the applicant complied with the 706 and continue on to hear the appeal and say no. He noted the record reflects the date the Assessor denied the abatement was January 3, 2017 and asked if this was a timely appeal.

**Attorney Daggett** gave the timeline of the denial and appeal and noted there was an extension granted bring the date to July, 2017 and yes, this is a timely appeal.

**Attorney Block** noted the names do not fit in to the 706 procedure. He noted the documents are password protected but you only need to type the password once for the whole flash drive to open. He also offered the draft appraisal was prepared for litigation. Mr. Block does not feel the appeal should be barred.

**Mr. Cloutier** questioned clarification on if any relevant information to characterize market valuation, feasibility studies, engineering, and remediation central to the value of these properties cited in questions 32 – 36 and 39 was provided.

**Mr. Hubbard** asked if the flash drives were searchable.
Attorney Daggett responded no and there were over 14,000 documents to search and of those documents that were reviewed, they did not appear to be responsive.

Mr. Block applicant did not do anything to make documents unsearchable.

Mr. Cloutier asked if the Board were to say they did not meet 706, what is the next level of review; is taxpayer barred?

Attorney Daggett noted this would have to be resolved prior to merits being heard; is it productive? What did it accomplish?

Ms. Hasson favored Plouffe’s reasoning to separate.

Ms. Johnson stated the appraisal is the most single important piece of evidence; if you don’t provide a legally useful appraisal……

Mr. Hubbard asked if there are any appraisals.

Attorney Block responded there has been one (1) appraisal on one piece of land.

Mr. Hubbard asked if the applicant’s appraiser is still in Italy and unable to present a finished appraisal. What is the purpose of a draft appraisal?

Attorney Block to decide if they should appeal taxes.

Mr. Hubbard asked how long does it take for this type of appraisal?

Attorney Block responded approximately six (6) months could be one (1) to two (2) years.

Mr. Plouffe asked the Board if they agreed with the Assessor’s position the taxpayer responsive to the 706 – you don’t know if information is in there, general in nature, or if taxpayer’s response was non responsive.

Mr. Cloutier asked about the status of the federal court litigation regarding the Clear Skies Ordinance.

Attorney Daggett responded that the parties have filed cross motions for summary judgment, which motions are pending before Judge Woodcock in federal district court. After the Energy East project was withdrawn recently, the City requested a stay of court action on the summary judgment motions, which request was denied without prejudice. The federal district court is allowing the City to renew its motion to dismiss, with the City’s filing due October 20th and responses and relies after that, and with oral argument set for November 21st.

Ms. Johnson asked if the Canadian decision effected the value of the property?
Attorney Block said he had no knowledge if it did or did not.

PUBLIC SESSION CLOSED

Mr. Cloutier  he noted there are two (2) issues at hand: 1st) related to the merits of the appeal if the valuation is wrong or correct – he does not see sufficient evidence to quantify that – lots of issues to value, functioning, vacancy, excess capacity, no way to see if impact on taxes or value. 2nd) the 706 issue probably big enough issue to be heard at some appearance but noted the applicant has not been completely forthcoming. A lot of information is needed, but not much provided – he believes applicant’s intent was the local board was just a stop on the way to State Board. His personal feeling is to look aside the 706 issue and dismiss Assessor’s 706 request.

Mr. Hubbard mirrors Mr. Cloutier’s comments. He noted with 14,000 documents their hands are tied with no data nor appraisal.

Ms. Field noted the last evaluation was in 2006 but the City did take action in 2009 and 2010 due to economics. Personally, she believes it is impossible for the board to render a decision. Needs clarification – applicant is before the City as a stop gap on its way to the State; are there clean-up cost before selling property; some property may be worth more.

Ms. Hasson said there is no way for her to decide because there is not enough information provided, intentionally. She disagrees with Mr. Cloutier on the 706 because City is being used as a stepping-stone and the applicant did not treat the City respectfully. She believes it is important to send a message with the 706.

Ms. Johnson said she cannot grant the abatement but does not want to vote for the 706. She believes it is counter-productive and it would be more efficient to go to the State without a 706 finding. Ms. Johnson noted the City will present case at the State level but finds it insulting the applicant did not give information. She is unsure if the 706 was proven or not.

Mr. Hubbard noted the burden of proof on the abatement is predicated on data – and there is none. And he questioned the decision on the 706.

Mr. Plouffe recommended the Board take up the 706 first; did the applicant meet the burden of proof the Assessor was wrong.

Mr. Cloutier stated he does not want to be in the position of denying due process.

Mr. Cloutier motioned to deny Portland Pipe Line Corporation’s tax abatement based upon the taxpayer failed to provide sufficient evidence that the assessed valuation of the property was manifestly wrong nor did they prove the property was substantially overvalued or that the Assessor’s methodology necessarily resulted in unjust discrimination of the Property in comparison to similarly situated properties.
The Board will reconvene on Friday, October 20th at 9:00 a.m. at the Assessor’s Office to sign decision.

Mr. Hubbard motioned to adjourn the meeting at 8:45 p.m.

Mr. Cloutier seconded the motion, motion passed 5-0