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EDITOR'S PICK

Gary resident sues Little Calumet River Basin Development Commission over alleged statutory violations

Alex Dalton



A local environmental group has filed a EPA civil rights complaint over the renewal of Maya Energy's air permit. The Gary law department also hopes to fight the Maya project in the Lake Superior Court.
Molly DeVore, file, The Times

Alex Dalton

A Gary resident is suing the Little Calumet River Basin Development Commission over alleged violations of transparency rules, the eligibility of two of the body's members, and the commission's ongoing relationship with the company behind a controversial planned waste recycling facility in Gary.

Created by the Indiana State Legislature in 1980, the commission funds and oversees flood control efforts and other public works projects in an area of Lake County stretching from the Illinois state line to Martin Luther King Drive in Gary. Its nine members are appointed by Indiana's governor.



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In the lawsuit, filed in Lake County Superior Court on Thursday, Gary resident Gary Lee alleges that the commission violated Indiana's Open Door Law, which mandates that governing bodies of government agencies allow members of the public to attend and record their meetings. According to the filing, the commission's members regularly meet in private before their monthly public meetings.

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While the Open Door Law allows governing bodies to meet in private "executive sessions" for certain purposes — for instance, to discuss pending litigation — Lee's suit alleges that the commission "discusses subjects in these private meetings that are subjects not eligible for discussion in an executive session."

Lee said he first started attending the commission's meetings as part of an effort to ensure the body maintained a drainage ditch on his property that it managed through an easement agreement. He is represented in his lawsuit by Michael Zoeller, an attorney with the Conservation Law Center.

"There's nothing that I see that these guys are doing that's nefarious," Lee said, "but they should be open and transparent because they're a non-elected public body."



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The lawsuit further claims that two of the commission's members, William Baker and Tom Wichlinski, are ineligible for membership because of their roles as president of the Munster Plan Commission and secretary of Griffith's Board of Zoning Appeals, respectively. The filing cites an Indiana statute which provides that a member of the Little Calumet River Basin Development Commission "may not be an employee or elected official of a city, town, or county governmental unit."

Baker receives a stipend for his Plan Commission role, Munster Interim Town Manager Trisha Abbott told The Times. She declined to address the question of whether Baker is an employee to determine commission eligibility, citing a lack of legal expertise.

The town of Griffith did not respond to a request for comment.

The lawsuit also takes aim at the commission's lease agreement with Maya Energy, a Merrillville-based company with plans to turn a lot on West 35th Avenue in Gary into a waste recycling plant. Plans for the facility, which would turn household waste into a burnable feedstock for industrial purposes, have met with delays and opposition from environmental advocates **and city leaders**.

Citing an Indiana statute concerning the commission's purpose, Lee's filing argues that the commission's lease agreement with Maya Energy "does not 'promote the general health and welfare of citizens of Indiana,' nor does it 'provide for the creation, development, maintenance, administration, and operation of park, recreation, marina, flood control and other public works projects, including levees.'"

The lawsuit asks the court to "declare that the Commission's license agreement with Maya Energy, LLC is void as an exercise of power beyond the scope of the Commission's authority."

Lee, who said he is "adamantly opposed to Maya," has participated in a grassroots campaign against the company's planned facility by the grassroots group Gary Advocates for Responsible Development. Members of the group introduced him to Zoeller, who has represented GARD in separate litigation against Maya Energy and the Indiana Department of Environmental Management.

Dan Repay, who serves as the Little Calumet River Basin Development Commission executive director, wrote in an email to The Times on Monday that he was not aware of the lawsuit and planned to consult with the commission's attorney. Court records show that the defendants had not yet been served notice of the proceedings on Monday.

Maya Energy president Jim Ventura declined to comment.

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