

Judge wants deal in records suit

By **Sandy Hodson** | *Staff Writer*
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A judge assigned to the latest open records lawsuit against the city of Augusta herded the parties toward mediation Tuesday.

During a hearing in Richmond County Superior Court, one of the city's attorneys, Dan Hamilton, tried unsuccessfully to convince the judge that the Association for Fair Government had no right to file legal action against the city.

Judge Duncan D. Wheale sided with the association's attorney, Robert Mullins, on the issue of "standing," but the judge was swayed by the city's argument that the association had other legal remedies than a writ of mandamus, which asks a judge to force a government entity to do its duty or follow the law.

The association contends a new attempt to review purchasing documents has been blocked.

Mr. Mullins filed an open records request this spring to see all documents associated with the city's contract for the demolition of a Greene Street building. The Electrical Equipment Co. building stands in the way of the St. Sebastian Way project to connect Walton Way with River Watch Parkway.

For several weeks, Mr. Mullins tried to learn the identity of the selection committee members and review the documentation that would explain their reasoning in the judging of two bids submitted for the project, according to court documents.

Mr. Hamilton said Tuesday that the city doesn't have that information. Mr. Mullins countered that the city code requires the purchasing department to maintain the information.

The project's Request For Proposal lists the evaluation criteria, though it does not assign values to the factors, such as qualifications and price.

According to the city's guidelines included in the request, "The contract file shall contain a written report of the basis on which the award is made/recommended."

The association wants to learn the identity of the selection committee member whose ranking of Thompson Building Wrecking nearly swung the recommendation to J & B Construction. The recommendation averaged score for Thompson was just 0.07 over J & B's. Thompson's price was \$8,600 lower than J & B's.

"Roadblocks should not be set up," Judge Wheale said. The city isn't required to create documentation, but he warned the city attorney that any destruction of documents would be considered contempt of court.

The judge asked the two attorneys whether they could seek a settlement by using a mediator. Both agreed to seek attorneys David Hudson and former Judge Neal W. Dickert to serve as mediators.

Mr. Hudson most recently represented The Augusta Chronicle when it joined in an open records lawsuit filed against the city last fall. The Chronicle settled its claim last month.

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