

**CITY OF MERRILL  
COMMITTEE OF THE WHOLE**

**Tuesday, June 11<sup>th</sup>, 2013 at 5:30 P.M.**

**City Hall Council Chambers  
1004 East First Street**

**AGENDA**

1. Call to order
2. Consider request to lift hiring freeze to replace retiring Street Department employee
3. Consider request to lift hiring freeze to replace Firefighter/Paramedic who has resigned to accept firefighter position in Wausau
4. Discussion of new City logo design
5. Consider resolution authorizing a development agreement by and between the City and Gateway North, LLC for construction of a restaurant facility
6. Request from City Administrator Johnson to discuss the future of the Municipal Court, including the following options:
  - Retain the court
  - A combined court with the City of Tomahawk
  - Discontinue the court and send cases to Circuit Court
7. Public Comment
8. Adjournment

Agenda prepared by City Clerk Bill Heideman  
Agenda reviewed by City Administrator Dave Johnson

The Merrill City Hall is accessible to the physically disadvantaged. If special accommodations are needed, please contact the Merrill City Hall at 536-5594.

*Date and time agenda was posted:* \_\_\_\_\_

*Posted by:* \_\_\_\_\_

2+3

**Heideman, Bill**

---

**From:** Johnson, David  
**Sent:** Tuesday, May 14, 2013 2:05 PM  
**To:** Heideman, Bill  
**Subject:** FW: Lift Hiring Freeze - COW Issue (Not P&F)

Bill,

Let's get this on the next COW meeting rather than the P&F agenda as I requested earlier. Thanks!

David Johnson, City Administrator  
City of Merrill  
1004 E. 1<sup>st</sup> St.  
Merrill WI 54452  
715-536-5594

---

**From:** Unertl, Kathy  
**Sent:** Tuesday, May 14, 2013 1:14 PM  
**To:** Johnson, David; Hayden, Tom  
**Subject:** Lift Hiring Freeze - COW Issue (Not P&F)

Before I left this morning, Street Superintendent Dick Lupton asked about lifting hiring freeze (for another retiring employee). Several years ago, the Council changed lifting the hiring freeze to COW issue (instead of P&F).

Next COW would be Tuesday, June 11<sup>th</sup>. Lupton will e-mail City Clerk Bill Heideman requesting agenda item.

Kathy Unertl, Finance Director  
City of Merrill



## Heideman, Bill

---

**From:** Lupton, Dick  
**Sent:** Tuesday, May 21, 2013 11:36 AM  
**To:** Heideman, Bill  
**Subject:** Agenda Item for June COW Meeting.

Bill , Would you place on the agenda for the June COW meeting to consider lifting the hiring freeze to fill the vacant position in the Street Department. The vacant position is due to a retirement.

Thanks,  
Dick



## Heideman, Bill

---

**From:** Johnson, David  
**Sent:** Monday, June 03, 2013 1:40 PM  
**To:** Heideman, Bill  
**Cc:** Hass, Steve  
**Subject:** COW agenda items

Bill,

Please add two items to next week's COW agenda:

- 1) Lift hiring freeze in order to replace retiring Street Department employee.
- 2) Lift Hiring Freeze to replace Firefighter/Paramedic Cody Weisman who resigned to take firefighter position in Wausau.

David Johnson, City Administrator  
City of Merrill  
1004 E. 1<sup>st</sup> St.  
Merrill WI 54452  
715-536-5594



**Heideman, Bill**

---

**From:** Johnson, David  
**Sent:** Thursday, June 06, 2013 10:33 AM  
**To:** Heideman, Bill  
**Subject:** Item for COW agenda  
**Attachments:** Logo 06 06012.pdf

Bill,

Please add "Discussion of new City Logo design" to the COW agenda with the attached document. Thanks!

David Johnson, City Administrator  
City of Merrill  
1004 E. 1<sup>st</sup> St.  
Merrill WI 54452  
715-536-5594



**MERRILL**

**Wisconsin**

**City of Parks**



**MERRILL**

**WISCONSIN**

**CITY OF PARKS**



5

**Heideman, Bill**

---

**From:** Unertl, Kathy  
**Sent:** Wednesday, June 05, 2013 1:38 PM  
**To:** Heideman, Bill  
**Cc:** Seubert, Kathy  
**Subject:** Both 6/11th COW and Council - Agenda Item (Restaurant)

**Importance:** High

The following item should be on both the June 11<sup>th</sup> COW and Council:

**Consider resolution authorizing a development agreement by and between the City of Merrill, Wisconsin and Gateway North LLC for construction of a restaurant facility**

I am finalizing the background information and will get to Kathy S. for each of the agenda packets.

Kathy Unertl, Finance Director/RDA Secretary  
City of Merrill



**RESOLUTION NO.**

**A RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MERRILL, WISCONSIN AND GATEWAY NORTH LLC FOR CONSTRUCTION OF A RESTAURANT FACILITY**

WHEREAS, the Common Council of the City of Merrill created Tax Increment District (TID) No. 3 and Redevelopment Area No. 1 on September 13, 2005 and amended the area on July 11, 2006; and,

WHEREAS, Gateway North LLC is constructing a new restaurant on property located within TID No. 3 and Redevelopment Area No. 1; and,

WHEREAS, the City of Merrill finds that the proposed development and the fulfillment of the items and conditions of the attached Development Agreement are in the vital and best interest of the City of Merrill, the Merrill Redevelopment Authority and City residents and serves a public purpose in accordance with State law; and,

WHEREAS, new property tax base will be generated and about 15 – 20 full-time equivalent positions will be created as a result of this new restaurant, and,

WHEREAS, Gateway North LLC have negotiated the development agreement to provide an incentive payment (pay as you go tax increment financing incentive) not to exceed \$100,000 to facilitate the commercial redevelopment, as well as reimbursement for costs of stormwater drainage improvements through the property for stormwater coming from the north, in an amount not to exceed \$35,000, and in addition, the City agrees to provide an economic development grant, upon proper application, pursuant to City of Merrill Code of Ordinance Chapter 4, to facilitate the issuance of a Reserve Class B liquor license for the premises;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MERRILL, WISCONSIN this \_\_\_\_ day of \_\_\_\_\_, 2013, that the Mayor and City Clerk are authorized to sign the development agreement by and between the City of Merrill and Gateway North LLC and to facilitate the implementation thereof.

Recommended by:

CITY OF MERRILL, WISCONSIN

Moved: \_\_\_\_\_

\_\_\_\_\_  
William R. Bialecki  
Mayor

Passed: \_\_\_\_\_

\_\_\_\_\_  
William N. Heideman  
City Clerk

## City of Merrill – TIF Development Incentive Overview

### TID No. 3 (East Side)

Property Owner:	Gateway North LLC
Business Entity:	New sit-down restaurant – El Mezcal
Location:	East Side – between AmericInn and Mobil
Development:	New building – about 4,000 to 4,125 sq. ft. with substantial parking - restaurant with bar
Personal Property:	Restaurant equipment
Jobs:	Potential 15 to 20 full-time equivalent employees
Investment:	Existing vacant land plus \$800,000 for building/ restaurant equipment
Infrastructure:	Stormwater drainage – serving regional area from north going through the property

### TID Development Incentives:

Restaurant Operator	Liquor License (2013)	\$10,000*
---------------------	-----------------------	-----------

\*Unless City of Merrill Liquor License becomes available

Property/Building Owner for Stormwater Improvements	Upon completion (2013)	Up to \$35,000
--	------------------------	----------------

Property/Building Owner	Annually (2015-2019) Pay-as-you-go TIF	\$20,000 – five years [Total of \$100,000]
-------------------------	---	---

TID Lifespan Tax Increment:

Spreadsheet provided – projected at \$282,277  
and likely to be higher than conservative estimates

**City of Merrill - Projected Tax Increment for Restaurant Development**

**East Side - TID No. 3**

<u>Real Estate</u>	<u>Existing</u>	<u>Projected</u>
	<u>Valuation</u>	<u>Valuation</u>
Land	\$147,100	Land \$300,000
Improved	\$0	Improved \$650,000
<b>Total</b>	<b>\$147,100</b>	<b>Total \$950,000</b>

**Projected RE Tax Increment \$802,900**

**Personal Property:**

New Restaurant Equipment Est. Cost \$150,000

**Projected Tax Increment (TID No. 3 - East Side)**

Const. Year	Value Year	Revenue Year	PP Value Increment	Total Value Increment	Tax Rate	Real Estate Tax Increment	PP Tax Increment	Projected Total Tax Increment
			10% Dep.					
2013	2014	2015	\$150,000	\$952,900	\$28.13	\$22,586	\$4,220	\$26,805
2014	2015	2016	\$135,000	\$937,900	\$28.13	\$22,586	\$3,798	\$26,383
2015	2016	2017	\$121,500	\$924,400	\$28.13	\$22,586	\$3,418	\$26,003
2016	2017	2018	\$109,350	\$912,250	\$28.13	\$22,586	\$3,076	\$25,662
2017	2018	2019	\$98,415	\$901,315	\$28.13	\$22,586	\$2,768	\$25,354
2018	2019	2020	\$88,574	\$891,474	\$28.13	\$22,586	\$2,492	\$25,077
2019	2020	2021	\$100,000	\$902,900	\$28.13	\$22,586	\$2,813	\$25,399
2020	2021	2022	\$100,000	\$902,900	\$28.13	\$22,586	\$2,813	\$25,399
2021	2022	2023	\$100,000	\$902,900	\$28.13	\$22,586	\$2,813	\$25,399
2022	2023	2024	\$100,000	\$902,900	\$28.13	\$22,586	\$2,813	\$25,399
2023	2024	2025	\$100,000	\$902,900	\$28.13	\$22,586	\$2,813	\$25,399
<b>Projected Tax Increment</b>						<b>\$248,441</b>	<b>\$33,836</b>	<b>\$282,277</b>
						<b>Real Estate</b>	<b>PP</b>	<b>Total</b>



# CITY OF MERRILL

## Redevelopment Authority (RDA)

Kathy Unertl, RDA Secretary

1004 East First Street • Merrill, Wisconsin • 54452

Phone (715) 536-5594 • FAX (715) 539-2668

e-mail: [Kathy.Unertl@ci.merrill.wi.us](mailto:Kathy.Unertl@ci.merrill.wi.us)

Date: June 5<sup>th</sup>, 2013

To: Mayor Bill Bialecki and Alderpersons

From: Kathy Unertl, Finance Director/RDA Secretary

RE: "But For" Criteria and Proposed Cash TIF Development Incentive – Restaurant

The following e-mail has apparently been widely distributed:

**From:** pete [<mailto:lokemoen@aol.com>]

**Sent:** Friday, May 31, 2013 4:50 PM

**To:** Caylor, Anne; Bialecki, Bill; Heideman, Bill; Malm, Chris; Johnson, David; Peterson, Kandy; Norton, Rob; Hass, Steve

**Subject:** RDA gift of \$100,000 to Gateway North owner

I do not believe that the taxpayers of the city of Merrill should see the RDA giving gifts of \$100,000+ to projects such as this restaurant. Where is the "if but for" in regard to this project.? Is this venture so under funded or unreasonably speculative that it can not go forth "if but for" tax payer dollars.? TIF money to facilitate needed infrastructure, low or no interest LOANS, or land acquisition make sense as they facilitate over all city development; but gifts to developers serve only to line the pockets of the person who receives the gift. Please consider loans-YES. Gifts\_NO

This e-mail contains some inaccuracies. Specifically, the "but for" criteria is a major evaluation factor for the RDA, Council, and Joint Review Board in whether or not to approve the creation of a tax increment district (please see following background information from Wisconsin DOR). In addition, the proposed restaurant site has been undeveloped/vacant land for over a decade after the AmericInn was constructed and business condo plan adopted.

Although regional stormwater drainage is needed for the site, other infrastructure (such as frontage access way) has been privately constructed and maintained.

Use of cash TIF development incentives are included as eligible in all City of Merrill TIF Plans. Comparable TIF incentives have been provided for the following construction projects: Walgreen's, Designer's Plus Salon & Spa, Lincoln Community Bank, One Way Collision's addition, Caylor's Corner's remodeling, and the Wisconsin River island storage buildings. For Hurd/Superseal, a \$200,000 TIF loan becomes forgivable based only on job creation since no increased tax increment is anticipated.

### 5.1 The "but for" Test

Tax Incremental Financing (TIF) benefits municipalities by allowing developments that would not otherwise occur without receiving assistance through TIF. The standard is called the "but for" test. The name comes from the expression, "The development would not occur *but for* the use of TIF." In other words, the proposed development would not happen unless financial support is available from TIF. For example, new development may not happen in a certain area because there are not enough streets, sidewalks, sewer lines or other pieces of physical infrastructure. After using TIF to provide these improvements, the development becomes desirable and will proceed. This section includes a discussion of who makes the "but for" finding, what it means to make that finding, and why that finding is important for TIF to work properly.

#### Making the "but for" Finding

It is important for all local officials to understand, accept, and be able to defend the "but for" finding. When the Plan Commission is considering developments, they should ask about the need for public assistance, and how that help will affect the projected profits for the developer. The Town or Village Board or City Council should also examine these facts. They need to support the "but for" finding, and understand it to defend the finding.

TIF law requires the Joint Review Board (JRB) to make the "but for" finding in the resolution that they adopt approving the creation resolution (for more details on the creation process see Chapter 2, and for the JRB see Chapter 3). This is one of three findings they must make in that resolution. Sec. [66.1105](#) (4m)(c), Wis.

Stats., lists the three criteria that the JRB shall base its decision on. The first is "[w]hether the development expected in the [Tax Incremental District (TID)] would occur without the use of [TIF]". The two other criteria are included in that paragraph, and together with "but for" they form the basis for TIF to work.

**Please note:** The JRB is empowered to receive planning documents, and even hold additional public hearings if needed.

When JRB members agree to make that finding it means that they have seen or heard evidence that convinces them of the vital need for TIF assistance to make this development a reality. By making the finding, they are sacrificing some amount of tax revenue for many years into the future. If TIF assistance is not needed to make a development happen, the JRB members should not agree to make the "but for" finding. They must make their findings within the established timeline.

**Please note:** JRB members should not be afraid to ask tough questions and get documentation to backup claims related to this finding.

#### What the "but for" Finding Means

When a development is considered, there is usually substantial risk involved for the developer. As a reward for taking the risk, a developer will expect a certain level of return on the project, called profit. Even if a profit is expected from a project, the return may not be large enough to make the risk worth taking for that developer.

TIF can alter the profit picture by shifting some of the costs of the development from the developer to the taxpayer. In an urban redevelopment setting, for example, a site may require environmental clean-up, which can be quite costly. If a municipality will clean up the site, and pay for it with TIF, the cost is not borne by the developer.

Why would a municipality want to take on expenses and risks in order to increase the profits of a private developer? Well, the basis of TIF is that there may be some projects that the municipality finds desirable, but that aren't profitable enough for private developers. By accepting increased risk, and paying for physical investment in the short-run, the municipality will benefit from an increased tax base and more jobs, which help the local economy in the long-run. The balance between the near-term risks and the long-run benefits must be evaluated to determine if a TIF project is worthwhile. The JRB has to make a finding on that matter, in addition to the "but for" finding.

### **Why the "but for" Finding is Important**

When creating a TID, the JRB must make a finding that the development would not happen but for the assistance of TIF. This is important because that finding is critical to ensuring that the TIF works as intended. Listed below are a few scenarios:

1. First, a developer wants to put up a strip mall on vacant parcels near a freeway interchange. A request for TIF assistance is made to pay for roads and the sewer line connections. The TIF funding is denied, but the development proceeds anyway. The roads and sewer lines are paid for by the developer, along with the cost of constructing the building. The increase in property value resulting from the site improvements goes onto the tax roll, and the tax payments from the development go into the general fund, increasing collections.
2. Next, let's imagine that same scenario, but after the TIF assistance is denied the developer decides not to proceed with the project. The parcels are not developed and remain vacant. The small tax revenue from the vacant parcels continues to the general fund as they had.
3. Finally, let's imagine this same developer with the strip mall on vacant parcels. This time, after hearing the proposal from the developer, the local governing body negotiates with the developer, and agrees to finance some of the desired projects. The request for TIF assistance is approved because the developer shows how the public funding of some infrastructure will make the project profitable. The municipality creates a project plan to proceed with a TID. The value of the vacant land will be the base value of the TID. Subsequent improvements such as the construction of the mall, will increase the value and constitute the value increment. The difference in value between the base and current value is termed the increment. The increment creates the tax revenue that funds the roads and sewer lines.

In our first scenario the tax base of the municipality is growing due to private investment. This is the way growth usually happens, and as a result of growth the tax burden can be distributed over more property value. In the second scenario the development does not happen because the project is not profitable. The tax base doesn't grow, no new jobs are created, and the tax burden stays about the same. In the last scenario, where TIF is used,

the development happens, but it costs the municipal taxpayers money (for the infrastructure improvements) to make it happen. In the end the tax base grows, but at the cost of higher tax burdens during the TID life. But this doesn't mean that TIF increases taxes!

If a proposed development will happen without TIF, then TIF should not be used because it would cost taxpayers more than it should for the growth that results. But, if TIF can be used to encourage a development that wouldn't otherwise happen, the tax base can be increased, thereby limiting the growing tax burden. The "but for" test is critical to this distinction; that is what makes it so important. Finding "but for" means that the JRB believes that the development will not happen without some assistance. They are endorsing the use of tax dollars to help bring growth that otherwise would not occur. A large tax base helps keep everyone's tax bills down, so growth is key. By helping to encourage growth, TIF can be a useful tool to grow the tax base while controlling increasing tax burdens.

6

**Heideman, Bill**

---

**From:** Johnson, David  
**Sent:** Tuesday, May 21, 2013 7:28 AM  
**To:** Hass, Steve  
**Cc:** Heideman, Bill; Hayden, Tom; Bialecki, Bill; Unertl, Kathy  
**Subject:** RE: P & F Agenda

Steve,

I plan to put municipal court on the next COW.

David Johnson, City Administrator  
City of Merrill  
1004 E. 1<sup>st</sup> St.  
Merrill WI 54452  
715-536-5594



---

**From:** Hass, Steve  
**Sent:** Monday, May 20, 2013 6:12 PM  
**To:** Johnson, David  
**Cc:** Heideman, Bill; Hayden, Tom; Bialecki, Bill; Unertl, Kathy  
**Subject:** Re: P & F Agenda

Dave,  
I think the Court decision should be on a COW meeting not just P&F.

Steve J. Hass  
City of Merrill  
Council President

On May 20, 2013, at 4:25 PM, "Johnson, David" <[David.Johnson@ci.merrill.wi.us](mailto:David.Johnson@ci.merrill.wi.us)> wrote:

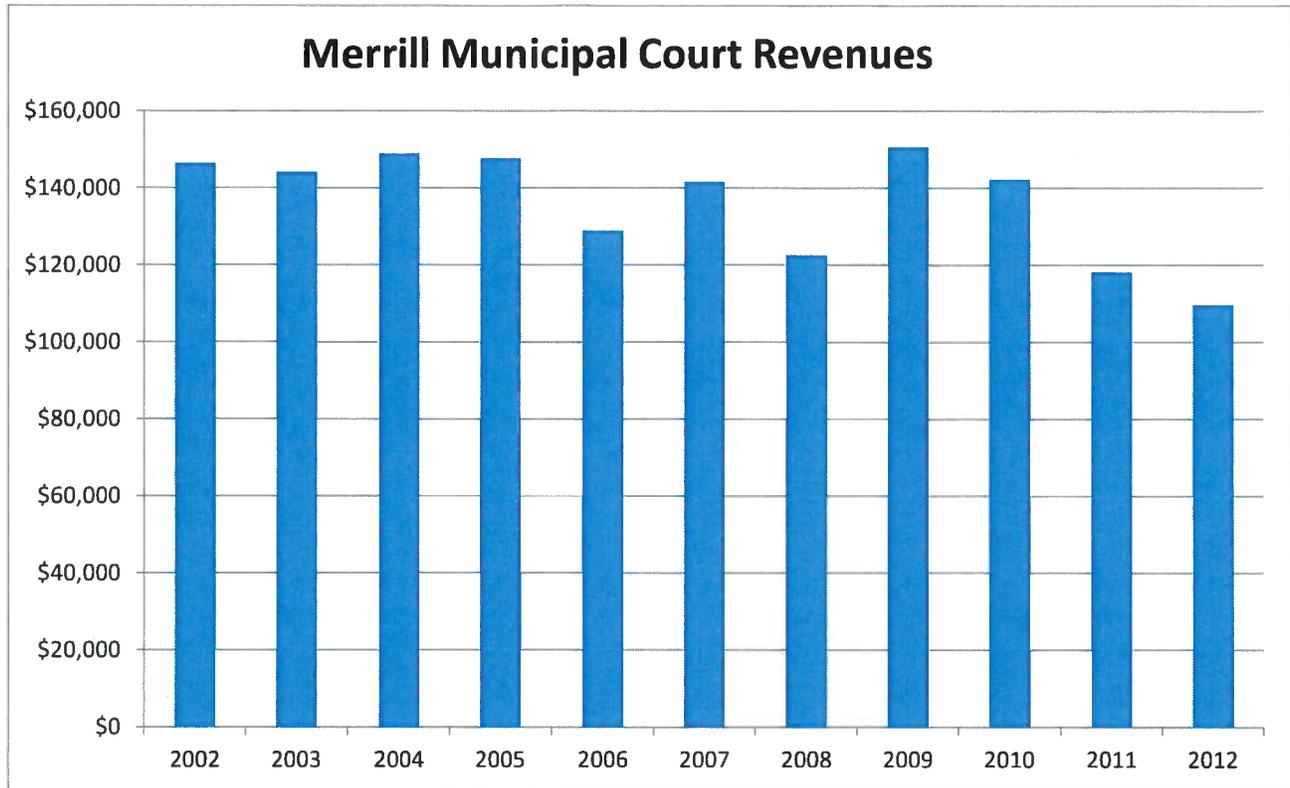
Bill,

I would to add two items to the P&F Agenda for next week:

- 1) Closed session to discuss upcoming Police and Fire Union contract negotiation strategies.
- 2) Open session item to discuss interest in retaining Municipal Court, a combined Municipal Court with Tomahawk, or not having a Municipal Court and sending cases to Circuit Court.

David Johnson, City Administrator  
City of Merrill  
1004 E. 1<sup>st</sup> St.  
Merrill WI 54452  
715-536-5594

# City of Merrill Municipal Court Revenue



	City Court Revenue	Court Bonds - Police Tech	Total Revenues	Muni Court Expenses	Offset Police/Attorney
2002	\$146,513		\$146,513		
2003	\$144,167		\$144,167		
2004	\$148,958		\$148,958		
2005	\$147,677		\$147,677	\$49,156	\$98,521
2006	\$128,952		\$128,952	\$51,790	\$77,162
2007	\$141,648		\$141,648	\$57,982	\$83,666
2008	\$122,604		\$122,604	\$65,049	\$57,555
2009	\$139,489	\$11,190	\$150,679	\$69,747	\$80,932
2010	\$129,256	\$13,035	\$142,291	\$68,407	\$73,884
2011	\$105,536	\$12,670	\$118,206	\$67,279	\$50,927
2012	\$98,184	\$11,500	\$109,684	\$57,497	\$52,187
2013				\$57,552 Budget	

Notes: Court Clerk transition in 2006.  
 Deputy Court Clerk position authorized in 2009 (40 Hours instead of 35 Hours)  
 2012 budget action to reduce staffing to 30 Hours

Prepared by Finance Director Kathy Unertl