MEMORANDUM

Business Item A

From: Administrator/Staff
To: Town Board
Re: Town Board review & discussion on a temporary moratorium in the Town of Clayton relating to the construction of data centers.

Purpose

This memo gives the Board background on the surge of large data center proposals in Wisconsin, the state and regulatory framework, how nearby governments have responded, and options the Board may wish to consider. It is informational. No action is required at this meeting unless the Board chooses to place an item on a future agenda.

Summary

- Wisconsin is a national focus for "hyperscale" data centers (very large campuses drawing hundreds of megawatts of power and occupying hundreds of acres). Projects tied to Microsoft, Meta, OpenAI/Oracle (Vantage), QTS and others are built, under construction, or proposed around the state.
- The state does not permit or site data centers. Land-use and zoning authority rests largely with local governments, so towns, villages, cities and counties are making these decisions themselves.
- The most common local response has been a temporary moratorium (typically 6 to 18 months) to study impacts and write rules, often before any proposal exists.
- Winnebago County has adopted a 12-month moratorium, but it applies only to the four towns where the County handles zoning (Algoma, Omro, Neenah and Nekimi). **Clayton does not appear to be one of them**, so the County moratorium would not cover Clayton.
- There is no known data center proposal in Winnebago County at this time, according to County officials' public statements.

Background: why this is happening now

State tax incentive. The surge in proposals is widely traced to 2023 Wisconsin Act 19, which created a sales and use tax exemption for equipment and software at qualified data centers. A separate 2025 law (Act 16) lifted the usual TID value cap for specific districts in Port Washington and Beaver Dam supporting data center projects.

Scale of projects. Examples reported in the press include Vantage's roughly $15 billion, 672-acre campus in Port Washington, Microsoft's Mount Pleasant campus (first facility online in April 2026, with more planned), and a Meta campus in Beaver Dam. At least one large proposal (a reported $12 billion plan in DeForest) was cancelled after local opposition.

Public opinion. Polling shows skepticism. A Marquette Law School poll in July 2026 found 76% of surveyed Wisconsin voters believe costs outweigh benefits, and a February Wisconsin Conservation Voters poll found about 70%.

State and regulatory framework

Zoning is local. The Public Service Commission (PSC) regulates utility rates and certain energy infrastructure, but it does not permit or site data centers themselves.

That leaves rezoning, conditional uses, subdivision approval and site plan review with local governments.

Electric rates. The PSC has acted to limit cost shifts to other customers:

- In May 2026 the PSC approved a modified "very large customer" tariff for We Energies, lowering the threshold from 500 MW to 100 MW, making it mandatory above that size, and extending the term to 15 years, among other changes.
- The PSC approved a one-off contract between Alliant Energy and Meta (Beaver Dam) but directed Alliant to file a standardized tariff for data centers above 100 MW.
- Madison Gas & Electric has proposed a similar tariff.
- The PSC has also paused review of a transmission application serving Port Washington to allow a revised filing, showing that transmission costs remain unsettled.

Legislation. The Assembly passed a Republican-authored data center regulation bill 53-44 in January 2026. The PSC said the bill would create confusion and invite litigation, the Governor's office was skeptical, and reports indicate it did not pass the Senate. Other bills (for example, one to bar nondisclosure agreements between developers and local governments) have been introduced. Neighboring Minnesota has enacted a statewide coordination framework; Wisconsin has not. Legislative status should be re-checked before any Board action.

Environmental permitting. Air permits for large backup diesel generators are issued by the DNR. The Sierra Club sued the DNR in July 2026 over permits for the Port Washington campus (45 diesel generators)

Common concerns raised in Wisconsin communities

- **Water:** groundwater withdrawals and cooling demand.
- **Electricity and transmission:** grid demand, new generation, and who pays for upgrades.
- **Land:** loss of farmland, compatibility with neighbors, and rural character.
- **Noise:** residents in several communities have raised low-frequency noise and backup generator testing.
- **Transparency:** nondisclosure agreements and private negotiations before public notice have generated controversy in several communities. Microsoft has said it will stop using NDAs with local governments.
- **Fiscal impact:** the balance of tax base and jobs against infrastructure and service costs. Construction employment is large; permanent operations jobs are comparatively few.

Perspectives in the debate

Supporters point to large capital investment, construction jobs, added property and utility-related revenue, and the chance to attract other development. Critics point to the concerns above, the state tax exemption, and limited permanent employment. Many local governments take a middle path: allow the possibility of development but only under clear rules, public process and cost protections.

How other governments have responded

- **Moratoria:** Counties including Dane, Manitowoc, Monroe, Door, Green, Jefferson, Oneida, Shawano and Winnebago, and municipalities including Madison, Superior, Oshkosh, Hobart and Sheboygan have adopted or advanced

pauses of 6 to 18 months. The Town of Bellevue voted 5-0 for a one-year freeze. Many acted with no pending proposal.

- **Permanent rules:** Menomonie adopted a new zoning framework; Park Falls created a special data center district; Jefferson adopted utility-planning and setback rules; Burnett County created a new classification with added county review.
- **Regional coordination:** Oshkosh has directed staff to work with Winnebago County and the East Central Wisconsin Regional Planning Commission toward a uniform Fox Valley approach. Dane County created a 13-member advisory committee.
- **Accommodation:** Washington County adopted an advisory resolution supporting use of existing infrastructure, and Port Washington has continued advancing its project.

Considerations for Clayton

- Confirm with the Town Attorney whether Clayton administers its own zoning, what its current ordinance says about large industrial or utility-scale uses, and whether a data center would fall under an existing category.
- Consider whether the Town's comprehensive plan and future land use map address large-scale, high-demand uses.
- Water, power and road impacts would involve other bodies (utility, DNR, County, neighboring towns, school district), making coordination important.

1. **Consider a temporary development moratorium.** Wisconsin law provides a process for development moratoria (Wis. Stat. ch. 66); the Town Attorney should advise on required studies, notice, hearing, duration and scope

DISCUSSION ITEM ONLY – NO ACTION TO BE TAKEN

If you have any questions about this information, please feel free to call or e-mail me.

Respectfully submitted,
Kelsey