

# **Caldwell County, Texas**

## **Regulation of Data Centers**

# County Power to Regulate Development

- Under Texas law, Counties have very little authority to regulate development.
  - Counties do not have zoning or similar land use controls. There is no vote on allowing or disallowing a use to occur.
  - Counties can regulate the subdivision of land but must approve the plat if it complies with regulations. Must act within 30 days of submittal.
  - Counties may require a development permit (primarily limited to drainage review) but must approve the permit if it complies with regulations. Must act within 30 days of submittal.

# County Power to Regulate Development

- Caldwell County is not a water provider and has no approval role.
  - Decisions regarding the available capacity and the provision of water are made by the water provider. Examples of water providers:
    - Maxwell Water Supply
    - Goforth Water Supply
    - Countyline Water Supply
    - Tri-County Water Supply
- Caldwell County is not an electrical power provider and has no approval role. Power providers are:
  - Lower Colorado River Authority (LCRA) – Wholesale power supplier
  - Bluebonnet Electric Coop – Retail power supplier

# County Power to Regulate Development

- County may not enact a moratorium.
- The County cannot pause or stop development.
- County must approve all permit applications within 30 days if application complies with regulations.

# Senate Bill 6 Regulates Data Centers

- Senate Bill 6 (2025) heavily regulates large power users (data centers, crypto miners) in the ERCOT region to enhance grid reliability.
- It mandates stricter interconnection, design, and operating standards for large-load customers.
- It requires large loads to disclose information on on-site generation and potentially shut down during – or have backup power for – weather emergencies.
- The Public Utilities Commission develops minimum rates, ensuring large customers pay appropriate transmission charges based on their peak demand.

# By Right, a Data Center in a Texas County Can:

- Execute a contract for service with a water and power provider. County has no role in this process.
- Develop wherever they wish in the County subject to compliance with basic subdivision and drainage permit rules.

# Impacts from Unregulated Data Centers

- Potential excessive potable water use.
- Potential air pollution associated with diesel power generation systems
- Potential 100% impervious cover.
- Potential stormwater runoff pollution.
- Light pollution.
- Potential issues related to floodplain development.

# Impacts from Unregulated Data Centers

- Texas Legislature limits the increase in new revenue for a County to 3.5% annually above the no new revenue rate.
- Caldwell County currently has around \$9 billion in value on the tax roll.
- If several multi-billion-dollar data centers hit the tax roll the County would be forced to lower the tax rate to a level that would cut the county's income by 50% to potentially 100%.
- For at least a year, the County would be insolvent and need to use reserves in order to pay salaries and operating costs.

# The Caldwell County Data Center Strategy

- Negotiate a Development Agreement that allows for a give and take discussion. Examples of Development Agreement provisions include:
  - Potential 312 agreement to keep value off tax roll subject to pilot payments to the County in lieu of taxation. This does not impact tax rate.
  - Require closed loop, non-potable water, cooling system. Daily water use is equal to only bathroom and kitchen usage levels.
  - Require stormwater water quality water quality treatment with specified TSS removal. (TCEQ-RG348 Edwards Aquifer Rules – Technical Guidance for Best Management Practices)

# The Caldwell County Data Center Strategy

- Require 80% impervious cover limit.
- Require Dark Sky provisions.
- Require 2D modeling of floodplains for more accurate modeling and permitting.
- Require onsite natural gas power generation for cleaner emissions.
- Require highest level of TCEQ wastewater treatment at 5-5-2-0.5 should a discharge permit be requested.
- Obtain cost free dedication of future roadway ROWs and funds for roadway construction.

# Conclusion

- This development strategy results in a better project for the citizens of Caldwell County than could otherwise happen with no input from the County.
  - More financial benefit. Pilot payments allow County to increase services to citizens and shift tax burden to industries.
  - More environmental protections.
  - Less impact on regional water systems.