



### **Contact Information**

Jim Culotta  
Town Administrator  
1293 Washington Avenue  
Cedarburg, WI 53012  
[jculotta@town.cedarburg.wi.us](mailto:jculotta@town.cedarburg.wi.us)  
[www.town.cedarburg.wi.us](http://www.town.cedarburg.wi.us)  
262-377-4509

### **Town Board of Supervisors**

Dave Valentine, Chairman  
Wayne Pipkorn, District 1  
David Salvaggio, District 2  
Gary Wickert, District 3  
Joe Rintelman, District 4

### **FOR IMMEDIATE RELEASE**

March 16, 2011

## **Government Accountability Board Rules All Town Electors May Vote For Both Town Supervisor Seats**

In a ruling it says protects “the rights of electors to vote for both offices”, the Government Accountability Board (GAB) has instructed the Town Clerk and County Clerk to prepare ballots that will allow all town electors to vote for both open town supervisor seats on April 3<sup>rd</sup>. For many years, town supervisors were elected by only residents within certain boundaries or districts. The rationale for the GAB decision is detailed in the attached opinion from Michael Haas, GAB Staff Counsel.

### **What town supervisor seats are on the April 3<sup>rd</sup> ballot?**

There are two open town supervisory seats - the District 2 seat currently held by Supervisor David Salvaggio and the District 4 seat currently held by Supervisor Joe Rintelman.

### **Who can vote for the town supervisor district/seat 2?**

All eligible/registered voters in the Town may vote for this seat.

### **Who can vote for the town supervisor district/seat 4?**

All eligible/registered voters in the Town may vote for this seat.

### **How will the winner be determined for each town supervisor seat?**

According to the GAB, the winner will be the top candidate (person with the most votes) for each seat. For example, the winner of the District 2 seat will be David Salvaggio, Gary Gengler, or a write-in candidate for that particular seat. The winner of the District 4 seat will be Joe Rintelman or a write-in candidate for that particular seat.

### **Will I need two ballots to vote for the two open supervisor seats?**

No, both supervisor seats and all other offices (school district, county supervisor, etc.) will be on one ballot.

### **Does the GAB decision impact where I vote?**

No, the polling locations will remain the same. Wards 1 - 4 vote at Town Hall and Wards 5 – 10 vote at Fire Station #2.

### ***Town of Cedarburg, Wisconsin***

*The Town of Cedarburg, which is home to Wisconsin's last [covered bridge](#), strives to maintain its rural charm and high-quality of life while balancing growth and progress. The Town is located in Ozaukee County, which is ranked [the 2<sup>nd</sup> Best Place to Raise a Family](#) by Forbes.com. For more information, visit [www.town.cedarburg.wi.us](http://www.town.cedarburg.wi.us)*

- end -

# State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wisconsin.gov](mailto:gab@wisconsin.gov)  
<http://gab.wi.gov>



JUDGE DAVID G. DEININGER  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

March 16, 2012

Brad Hoeft  
Huiras, Farrell & Antoine, S.C.  
2560 Hwy 32  
Po Box 366  
Port Washington, WI 53074

Re: Town of Cedarburg Election

Dear Attorney Hoeft,

This correspondence memorializes our telephone conversation of earlier this week regarding the elections for town board supervisor in the Town of Cedarburg. As we discussed, for a number of years the Town has conducted elections using districts seats rather than at-large seats, and the Town had prepared ballots to do so for two seats at the April 3, 2012 Spring Election. Our staff has advised the Town Clerk and County Clerk that town board supervisors must be elected on an at-large basis and that the ballots must be modified to permit all town electors to cast votes for both seats which will be on the ballot.

Wis. Stat. §5.60(6)(a) governs the form of spring election ballots for townships. That subsection states as follows:

**(6) TOWN.**

**(a)** Except as authorized in s. 5.655, there shall be a separate ballot giving the names of all candidates for elective town offices in the form prescribed by the board under s. 7.08 (1) (a). *There shall be 2 ballot forms. One ballot form shall be used for the election of supervisors to numbered seats and one ballot form shall be used for the election of supervisors to unnumbered seats.* On the ballot used for the election of supervisors to unnumbered seats, all supervisor candidates shall be listed together and the voting instructions shall state "Vote for not more than... [insert number of supervisors to be elected] candidates". *All towns shall elect their supervisors to unnumbered seats unless the annual town meeting adopts a plan to elect supervisors to numbered seats.* The names of candidates for town office shall be arranged by using the same method as that used by the board under sub. (1) (b). A space shall be provided under each office on the ballot for a write-in candidate. (emphasis added).

The italicized language above indicates that town board supervisors must be elected to either numbered seats or unnumbered seats, but there is no statutory authority for townships to elect supervisors to seats by geographic district rather than at-large. Cities in Wisconsin have express authority to create aldermanic districts through Sections 62.09(2) and 5.15(1)(c) of the Statutes but towns do not. Wis. Stat. §5.15(1)(c) states that wards established by municipal governing

bodies shall govern the adjustment of county board supervisory districts and city election districts and it does not mention town board districts in that direction.

As you noted, Wis. Stat. §5.02(25) defines a ward as a subdivision of a town, village or city created for the convenience of electors and for purposes of election administration. In other words, towns create wards to determine where electors should vote and as the building blocks of districts for other county, state and federal offices, but wards are not used to create districts for town offices.

Based upon these provisions, it is the opinion of the staff of the Government Accountability Board that the Town of Cedarburg may not continue to hold elections for town board supervisor as district elections, but must use at-large seats, despite any local ordinance to the contrary. The statutory provisions would supersede any local ordinance. While we might normally conclude, based upon the italicized language above, that supervisors should be elected to unnumbered seats absent an adopted plan for numbered seats, we believe it would be less confusing to voters at this point to conduct the election using numbered seats because the nomination process and notices have indicated that the election would utilize numbered districts.

We recognize that this is not a perfect solution, due to candidates and voters operating under the assumption that candidates would campaign in and represent specific geographic districts, and that voters would be permitted to vote for only one office. However, our primary concern is to protect the rights of electors to vote for both offices. Under this procedure, there are still two separate offices to be filled, and the top candidate for each office wins the election. It is not the same as conducting elections using unnumbered seats where the top two candidates are elected.

We have advised the Town Clerk that the Town should publicize this change in the election to voters as soon and as widely as possible to minimize confusion at the polls, and to educate poll workers so that they are able to answer any questions on Election Day. We understand that ballots have been printed which still designate the seats as district seats but instructing all electors that they may vote for each seat. We are not requiring that those ballots be re-printed, making it especially important that the Town take steps to clarify the situation for the public.

This is an informal opinion of the staff of the Government Accountability Board and not a formal opinion, issued pursuant to s.5.05(6), Stats., of the Board, itself. I hope that this information is helpful, but please contact me if you have any additional questions.

**Government Accountability Board**



Michael Haas  
Staff Counsel