

2.

On a motion of Supervisor Walters, seconded by Councilman Gorman, the following resolution was

ADOPTED	Ayes	3	Walters, Collins, Gorman
	Abstained	1	Zeigler
	Noes	0	

**TOWN OF HAMBURG
RESOLUTION**

At a meeting of the Town Board of the Town of Hamburg on the 18th day of July, 2011, at the Hamburg Town Hall, Hamburg, New York, the following resolution was adopted:

Rules for the Examination, Hearing, Investigation and Determination
of Charges against Member of the Town of Hamburg Police Department

WHEREAS, the Town Board has received and reviewed information concerning certain conduct of a member of the Town of Hamburg Police Department (“member”), and

WHEREAS, Town of Hamburg Chief of Police Michael Williams has preferred disciplinary Charges against the member which were duly served, and

WHEREAS, the member has filed an Answer to the disciplinary Charges and has requested a hearing, and

WHEREAS, pursuant to New York State Town Law § 155, the Town Board shall have the power and authority to adopt and make rules for the examination, hearing, investigation and determination of charges made or preferred against such member;

NOW, THEREFORE, the Town Board of the Town of Hamburg hereby makes and adopts the following rules for the examination, hearing, investigation and determination of charges (“Charges”) made and preferred against the member:

RESOLVED

Independent Hearing Officer

1. An independent hearing officer shall be appointed by the Town of Hamburg.
2. The independent hearing officer so appointed shall conduct a hearing and trial of said Charges, making a record thereof, for the purposes of examining, hearing, and investigating the Charges.

Conduct of the Hearing

3. The hearing and trial shall be bifurcated into two separate phases. Pursuant to the first phase of the hearing, the independent hearing officer shall take testimony concerning only whether each of the preferred Charges has been sustained. Within twenty (20) days after the conclusion of this first phase, the independent hearing officer shall make written recommendations to the Town Board as to whether each of the Charges has been sustained by the Town of Hamburg by a preponderance of the evidence presented. After reviewing the independent hearing officer's recommendations and the record of the first phase of the hearing, the Town Board shall make a final determination as to whether each of the Charges has been sustained.

4. The second phase of the hearing and trial shall proceed only if the Town Board has determined that one or more of the Charges has been sustained against the member. During this second phase, the independent hearing officer shall take testimony to determine a recommended punishment for the member. Within twenty (20) days after the conclusion of this second phase, the independent hearing officer shall make written recommendations to the Town Board as to the punishment, if any, that the member should receive. After reviewing these recommendations and the record of the second phase of the hearing, the Town Board shall make a final determination as to the punishment, if any, that the member shall receive.

5. The member shall have the right to a public hearing and trial.

6. The Town of Hamburg and the member shall have the right to be represented by counsel.

7. The member, upon request, shall have the right to copies of any documents that the Town of Hamburg will seek to introduce during the hearing and trial, at least one day prior to such hearing and trial.

8. The Town of Hamburg, upon request, shall have the right to copies of any documents that the member will seek to introduce during the hearing and trial, at least one day prior to such hearing and trial.

9. No other discovery is authorized.

10. The Town of Hamburg and the member shall have the right to present and examine witnesses and cross examine the other's witnesses.

11. The rules of evidence shall be those generally accepted in New York State Civil Service Law § 75 proceedings.

12. The Town of Hamburg and the member shall have the right to submit oral closing arguments at the conclusion of each phase of the hearing and trial.