



# **A MANUAL ON MUNICIPAL BOUNDARIES**

## **PERAMBULATING TOWN LINES IN NEW HAMPSHIRE**

*“The lines between the towns in this state shall be perambulated, and the marks and bounds renewed, once in every seven years forever, by the selectmen of the towns, or by such persons as they shall in writing appoint for that purpose”*

**NH RSA 51:2**

**First Edition  
September 2003**

**Robert G. Moynihan P.E., L.L.S.  
Professor, Civil Technology/Surveying and Mapping  
Thompson School of Applied Science  
University of New Hampshire**

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# FOREWORD

One of the various types of records maintained permanently at the State Archives is the collection of perambulation reports for state and municipal boundaries. The perambulation reports constitute a rather small but extremely significant collection of documents. Their importance is made abundantly clear in the following pages.

It is important to recognize that the time invested by town leaders to carefully research and walk the lines, and then to prepare the returns, is great. Their efforts are of vital significance to their communities.

But also, as the principal keeper of New Hampshire's documentary heritage, I find it a privilege to work with a group of professionals so dedicated to the preservation of that heritage that they make available the time and effort to create and support a publication so complete and so clear in regard to the creation, processing, and preservation of these documents.

Robert Moynihan, the working group members, and the New Hampshire Land Surveyors Association are all to be congratulated for their efforts on behalf of this group of documents which, ultimately, affect us all. This archivist and the staff at the State Archives are most appreciative for this support of their mission.

Frank C. Mevers, PhD  
Director and State Archivist  
New Hampshire Division of Archives and Records Management

# PREFACE

## **THE IMPORTANCE OF MUNICIPALITIES**

“Municipal Institutions constitute the strength of free nations. Town meetings are to liberty what primary schools are to science; they bring it within the people’s reach, they teach men how to use and how to enjoy it. A nation may establish a free government, but without municipal institutions, it cannot have the spirit of liberty.”

*Alexis De Tocqueville (Democracy in America 1835)*

## **THE IMPORTANCE OF MUNICIPAL BOUNDARIES**

“But as to its (a town’s) territorial jurisdiction and its established boundaries, it was created and its limits defined for public purposes, as part of the machinery of government, its principal functions being to assess and collect public taxes, support common schools, build and maintain highways, relieve paupers and conduct elections. In exercising jurisdiction in any of these particulars the town acts as part of the sovereignty of the state, and its right to this jurisdiction within its established territorial limits is held ... as an attribute of sovereignty under the legislative power for public purposes...”

*Greenville v Mason in 1876 (57 N.H. 385)*

## **THE IMPORTANCE OF MAINTAINING MUNICIPAL BOUNDARIES**

“Forasmuch as the bounds of towns, and the lands of particular persons, are carefully to be maintained and not without great danger to be removed by any, which notwithstanding by deficiency and decay of marks, may at unawares be done, whereby great jealousies of persons, trouble in townes, and incumbrances in Courts do often arise, which by our own care and means might be prevented.

It is therefore ordered by the court and the authority thereof, that every town shall set out their bounds, within twelve months after their bounds are granted: and that when the bounds are once set out, once in three years, three or more persons of a Town, appointed by the selectmen, shall appoint with the adjacent Towns, to go to the bounds betwixt their said Towns and renew their marks. Which marks shall be a great heap of stones, or a Trench of six foot long and two foot broad...”

*Preamble and portion of the original perambulation statute, Colonial Laws of Massachusetts, 1641*

**Perambulation:** “The act or custom of walking over boundaries of a district or piece of land, either for the purpose of determining them or of preserving evidence of them.”

*Black’s Law Dictionary, 5<sup>th</sup> Edition*

“It is always necessary in proving the boundaries called for in a charter, or in a deed, or in any other document, to identify the monuments by extrinsic (external, from outside sources) testimony. So long as the witnesses are alive who saw the monuments placed in position and were present at the running of the lines, they can testify of their own knowledge of those monuments; but when those original witnesses are dead, which usually happens in no very long period of time, there is absolutely no means of identifying the marks and bounds except by tradition, hearsay, or reputation, for I believe that in this connection these words are nearly synonymous.”

Justice Cushing in *Greenville v Mason 1876 (57 N.H. 393)*

# ACKNOWLEDGMENT OF WORKING GROUP MEMBERS

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In the preparation of this manual, a great deal of help was provided by the working group listed above. In addition, many people who have been involved in perambulations have contributed ideas, experiences and suggestions to the document.

The book has been identified as the “First Edition” to recognize that, upon publication and dissemination, many corrections, additions and modifications will be suggested. As new and useful information becomes available, it will be added to the manual to help improve the task of eventually having all town monuments in the state positioned and documented. The hope is the problems of the past will be avoided in the future.

The author encourages correspondence about this topic at any time and especially welcomes new ideas, suggestions and corrections. He may be reached at [rgm1@christa.unh.edu](mailto:rgm1@christa.unh.edu), or 603-862-1059, or Cole Hall, University of New Hampshire, Durham, N.H. 03824.

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# I. INTRODUCTION / EXECUTIVE SUMMARY

I let my neighbor know beyond the hill;  
And on the day we met to walk the line  
And set the wall between us once again  
We keep the wall between us as we go.  
To each the boulders that have fallen to each.

...He will not go behind his father's saying,  
And he likes having thought of it so well  
He says again, 'Good fences make good neighbors'.  
*From "Mending Wall" by Robert Frost*

## PURPOSES OF THIS HANDBOOK

Per the requirements of N.H. RSA 51:2:  
"The lines between the towns in this state shall be perambulated, and the marks and bounds renewed, once in every seven years forever, by the selectmen of the towns, or by such persons as they shall in writing appoint for that purpose" (For unincorporated places, the County Commissioners assume the responsibility for performing the perambulation.)

- The goal of this publication is to help officials:
- Understand the importance of municipal boundaries.
  - Understand how to research, search for, perambulate and report on town boundaries.
  - Understand some legal aspects of town lines.

In most cases it is a lack of knowledge and competency in the area of plans, charter descriptions, etc., that make selectmen or municipal officials hesitant or reluctant to deal with the issue of perambulating town lines. This manual hopes to provide assistance in overcoming some of the obstacles.

After the perambulation is completed once, in the thorough and documented manner suggested in this publication, all subsequent perambulations will be much simplified. Future perambulators will have a complete record on file and, if using GPS (Global Positioning System) units, will be able to navigate to positions of bounds rapidly and efficiently.

## EXAMPLES OF TOWN LINE PROBLEMS

One does not have to go far to see current examples of cases where the location of the town line has posed problems for the municipality. A recent (2002) N.H. Supreme Court case (*Appeal of Meunier v. N.H. Board of Land and Tax Appeals*, 147 N.H. 546) deals with a landowner disputing the municipal boundary as determined by the selectmen.

In Somerville, Mass. officials are having difficulty developing the Assembly Square area (where one proposed site alone will be worth millions in tax revenue)

because of a dispute about the border with the town of Medford – which hinges on the location of the “middle” of the Mystic River.

Another recent case (in North Stonington, Conn.) put a landowner’s house not only in a different town but in a different state!

Most laypersons would assume that something as important as the location of a municipal boundary would be well defined. But they would be surprised to find that even the best efforts of town officials and surveyors in the past, if not periodically renewed, will be “defeated by the ravages of time and nature’s ability to erase man’s efforts to build border fences using imaginary lines” (“Perambulate – or Walk!,” *N.H. Profiles*, March 1984 p. 49). Marks disappear, trees die, stones move, and bounds are displaced.

The purpose of the Perambulation requirements which, in this country date from 1641, is simply to regularly, in concert with the neighboring town, review, inspect, and renew the common bounds in order to prevent confusion and potential disputes.

## **WHY THE PERAMBULATION REQUIREMENT IS IMPORTANT**

### **WHAT IS A MUNICIPALITY?**

“A municipal corporation is a body politic created and organized by the inhabitants of a prescribed area, under the authority of the legislature, into a corporation with all the usual attributes of a corporate entity, but endowed with a public character by virtue of having been invested by the legislature with subordinate legislative powers to administer local and internal affairs of the community.” American Jurisprudence Second Edition (Am Jur 2<sup>nd</sup>)1991: 56.

In the state of New Hampshire the term “municipality” refers to both towns and cities. Per RSA 21:5, (Chapter 21, Statutory Construction) “The word ‘town’ shall extend and be applied to any place incorporated, or whose inhabitants are required to pay any tax, and shall mean city, town, ward, or place in which the subject-matter referred to is situate.”

### **WHO ESTABLISHES MUNICIPAL BOUNDARIES?**

As stated in 56 Am Jur 2<sup>nd</sup> 28, “The fixing of boundaries for municipal corporations is a legislative function, and such legislative action is not reviewable by courts, unless it is arbitrary, unreasonable, or a violation of constitutional rights.”

### **ESTABLISHMENT OF MUNICIPAL BOUNDARIES IN NEW HAMPSHIRE**

In New Hampshire, towns were established by a charter. For most of the towns that charter was granted either by the State or, prior to the Revolutionary War, by the Province of New Hampshire (or in some cases the Province of Massachusetts). This is discussed in greater detail in the section on “Collecting the Evidence.”

## **WHY THE LOCATION OF TOWN LINES IS IMPORTANT**

### **Town Responsibilities and Liabilities**

Town boundaries determine the limit of the jurisdiction, responsibilities and liabilities of the municipal corporation. Issues such as what property can be taxed, where

a family can send their children to school and where they vote, what liability might exist for providing emergency response (fire, ambulance, police), who must expend funds for highway and other public maintenance obligations, and which police department has jurisdiction for criminal or domestic matters, are just a few of the day-to-day activities that need the correct location of the border of a town to make decisions.

The importance and purpose of town lines was argued in a case between the towns of Greenville and Mason (57 N.H. 385 (1876)):

“But as to its territorial jurisdiction and its established boundaries, it was created and its limits defined for public purposes, as part of the machinery of government, its principal functions being to assess and collect public taxes, support common schools, build and maintain highways, relieve paupers and conduct elections. In exercising jurisdiction in any of these particulars the town acts as part of the sovereignty of the state, and its right to this jurisdiction within its established territorial limits is held ... as an attribute of sovereignty under the legislative power for public purposes...”

#### State of N.H. Geographic Information Systems

A statewide geographic information system (GIS), named Geographically Referenced Analysis and Information Transfer (GRANIT), has been developed to assist state and local officials make reasoned decisions relative to land use and natural resources issues. It is critical to have the political boundaries correct in order to ensure that decision and programs which require location analysis are properly assessed. An accurate Political Boundary Layer provides a framework that allows municipal data to be assembled across the state without having gaps or overlaps of data.

Many communities in the State have developed or are working to establish their own municipal-based digital tax map layer and an accurate town line is required to assure that the statewide GRANIT data will overlay and coincide with its town boundary.

The current Political Boundary Layer of the state GIS was developed from existing United States Geological Survey (USGS) topographic maps with a scale of 1:24,000 (1 inch = 2000 feet). The expected positional accuracy of mapped features at this scale is in the +/- 40 to +/- 60 foot range. While the USGS maps are renowned for their reliability, it was known that some of the town lines on the maps might be incorrectly placed. In fact, a good example of this uncertainty occurs on the USGS “Peterborough North” quadrangle map which currently shows a part of the Bennington-Greenfield town line as 'indefinite boundary'. As the various individual maps were connected together (paneled) it was found that municipal boundaries did not always line up or match. Decisions were made to average the positions if the mismatch was small (less than 40 to 50 feet). Where the alignment of the town line from one map to another was significantly off, a new line segment was added to connect the two ends. This represents only an artificial “fix” and needs to be corrected. Obtaining more accurate positions of the monuments (during perambulations) will allow the system to be updated.

### Emergency Dispatch (911)

This program is attempting to establish the location of town lines in order to properly route public safety services to the correct jurisdictions and to locations within those jurisdictions as well as to determine just who has jurisdiction.

### Federal Government Programs

At the federal level, municipal boundaries are used by a large number of organizations to develop information and provide services. Agencies such as the Census Bureau, the Federal Emergency Management Agency, Natural Resources Conservation Service (formerly the Soil Conservation Service), the US Geological Survey, and the U.S. Department of Agriculture all have continuous need for the correct locations of town (and county) lines.

Many State government agencies also require accurate delineation of municipal boundaries to properly fulfill their responsibilities.

### Increase in Land Development

In the past, the edge-areas of towns were relatively undeveloped and the importance of the correct location of the town line relative to land uses was not critical. As land values have increased significantly and as these formerly open areas face more and more development pressure and are changed to residential, commercial, and industrial uses, the “approximate” nature of the municipal boundary is no longer adequate.

### Private Rights

Municipal boundaries and monuments can have a considerable impact on private landowner rights. The responsibility for re-establishing and maintaining them has to rest with the elected officials of that town or city – and is a statutory requirement.

## **WHY LOCATION AND PERPETUATION OF MUNICIPAL BOUNDARIES ARE NOT DONE**

The argument often put forward by municipal officials to justify inactivity with regard to town boundaries suggests that the statute represents a ‘legal dinosaur’ or is archaic in the new age of regionalism in local government. The many other demands on municipal officials along with limited funds also conspire to place this legal requirement lower down on the priorities list. However, a responsibility with over 350 years of statutory and case-law history (including ongoing cases), as well as millennia of tradition and custom, certainly gives the obligation a strong purpose.

As mentioned earlier, in most cases, it is a lack of knowledge and competency in the area of plans, charter descriptions, etc., that make selectmen hesitant or reluctant to deal with the issue of perambulating town lines. The statute is clear that the **Selectmen do not have to perform the perambulation themselves**; they may appoint people to perform the perambulation or to assist them. In any event, this manual may provide assistance in overcoming some of the obstacles.

## THE SCOPE AND MAGNITUDE OF THE TASK

When one considers the number of towns in the state, the number of miles of town lines, and the number of bounds per mile, this task of perambulation takes on an even more daunting nature.

The number of towns, cities, and unincorporated places in New Hampshire is 259. This consists of 13 Cities, 221 Towns, and 25 Unincorporated Places. For unincorporated places, the County Commissioners assume the responsibility for performing the perambulation.

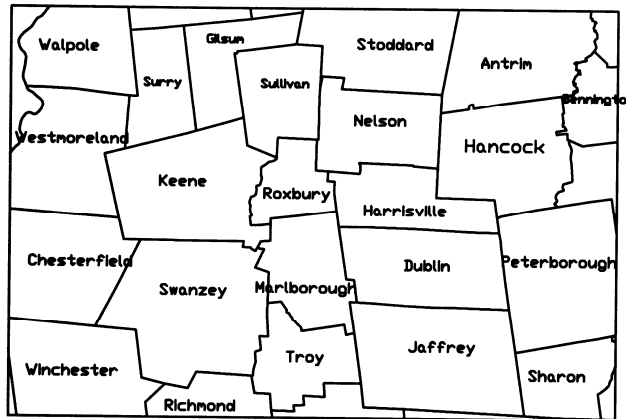
There are in the neighborhood of 7000 miles of town lines in the state. But because most are common with another town, there are approximately 4000 miles (3,760 according to the State GIS) of unique lines.

Many of the towns have a part of their municipal boundary bordering not on another town but on another country, State, or the ocean. (See page 20 for a more detailed discussion of State and Canadian boundaries.)

Some approximate lengths are:

Canada	:	58 miles
Maine	:	175 miles
Massachusetts	:	100 miles
Vermont	:	190 miles
Atlantic Ocean:		<u>20 miles</u>
Total		543 miles

In reviewing the shapes of the various towns, the average town perimeter is approximately 26 miles. Assuming average bends (vertices) in the town lines per town to be about 10 (not counting water boundaries) and assuming two to three intermediate bounds per line (at roads, streams, etc.), the total number of town bounds per town could average between 25 and 50.





So a rough approximation of the total possible number of town bounds in the State, not counting along water boundaries ranges from a high of approximately 13,000 (50 x 259) to a low of 6,500 (25 X 259). Again, given that most of these bounds are shared by at least one other N.H. political jurisdiction, the possible number of unique town bounds could be approximated by taking the total miles of unique town lines (4000) and, assuming an average of two bounds per mile, this results in a total of 8,000 unique municipal monuments in the State, somewhere between the two estimates above.

No matter how you look at it, when seen in its entirety, 4000 miles of town lines and 8,000 monuments needing to be searched for, recovered, and reported on every seven years is an overwhelming task.

But, given the importance of these boundaries (as mentioned above), after the perambulation is completed once, in the thorough and documented manner suggested in this publication, all subsequent perambulations will be much simplified. Future perambulators will have a complete record on file and, if using GPS (the Global Positioning System) units, will be able to navigate to positions of bounds rapidly and efficiently.

## II. PERAMBULATION OF TOWN LINES

### DEFINITION

**Perambulation:** “The act or custom of walking over boundaries of a district or piece of land, either for the purpose of determining them or of preserving evidence of them.” *Black’s Law Dictionary, 5<sup>th</sup> Edition*

### THE HISTORY OF “PERAMBULATION”

#### THE HISTORICAL IMPORTANCE OF KNOWING WHERE LINES ARE

As far back as Babylonia, where a deed description was found on a boundary stone dating to 1100 BC, the location and perpetuation of boundary lines was important. Along with this particular deed description was a curse on whomever tampered with the stone, that Ninib, the Lord of the Boundary Stone, and other deities would “drive him into evil and unhappiness” In ancient Egypt the location of boundary lines was very valuable due to the regular flooding of the Nile River. Even in the Bible there are references to the importance of boundaries:

Deuteronomy 19:14 “Thou shalt not remove thy neighbor’s landmarks”

12:17 “Cursed be he that removeth his neighbor’s landmark”

Proverbs 22:28 “Remove not the ancient landmarks, which thy fathers have set”

In Roman times there was also a god of boundary stones, Terminus, with an annual feast Terminiilia (Feb 22 or 23<sup>rd</sup>) at the end of the Roman year. At this formal ceremony, the owners of adjacent lands would go to each of their common boundary stones and each landowner would place a garland over his own side of the stone.

In Britain a custom of “beating the bounds” has existed for well over 2000 years. Its origins are thought to come from ritual celebrations by many cultures across Europe and beyond. Before the Roman invasion, spring rituals, as part of the pagan festival of Beltane, involved using birch or willow twigs known as rods or wands to ‘beat’ the bounds and ward off the evil spirits or ghosts which they believed resided there. These spirits would wreak havoc on anyone who removed or tampered with them.

“In simple terms (the custom) involves people in the locality perambulating the farm, manorial, church or civil boundaries pausing as they pass certain trees, walls, hedges (and stones) that denote the extent of the boundary to exclaim, pray and ritually ‘bless’ particular landmarks with sticks.” (from “Beating the Cholesbury Bounds” <http://www.cholesbury.com/beatbounds.htm>).

In Saxon times, as parish boundaries in some cases succeeded manorial estates, the perambulation by parishioners and the parish priest would occur in the spring and at each bound a cross would be cut, both in the turf and on trees or posts. Prayers would be said, “beseeching” God’s blessing on the growing crops. This celebration was know as “Rogantide” from the Latin “rogare” which means to ask, to beseech, to intercede. The custom, in some form, remains in Britain to this day. In the north of England it is called “Ganging Days” from the ‘ganging’ or procession that perambulates around the parish.

It is at this time that another interesting custom would occur. At the bounds and other significant points (where the line would cross a stream, for example) young boys were 'bumped' with a spade or thrown into the water so that they would remember important locations along the boundary.

Other sources refer to holding them upside down and their heads bumped on a marker stone or 'switched' with the wands or thrown over hedges, into brambles or ponds, all to impress upon them the location so that it would not be forgotten.

(from "Beating The Bounds" Grendon Underwood; 8 May 2002) [www.blasdale.com/pictures/2002/BeatingTheBounds](http://www.blasdale.com/pictures/2002/BeatingTheBounds) ).

In the N.H. Supreme Court case of Greenville v. Mason, 57 N.H. 385 (1876), Justice Cushing describes the term perambulation as "not new to the law or custom of our English Ancestors" and quotes from Hone's "Year Book (p589) for an account of a perambulation.

"A *perambulation*, or , as it might be more correctly called, a circumambulation, is the custom of going round the boundaries of a manor or parish, with witnesses, to determine and preserve recollection of its extent, and to see that no encroachments have been made upon it, and that the landmarks have not been taken away. It is a proceeding commonly regulated by the steward, who takes with him a few men and several boys, who are required to particularly observe the boundary lines traced out, and thereby qualify themselves for witnesses in the event of any dispute about the landmarks or extent of the manor, at a future day. In order that they may not forget the lines and marks of separation, they take *pains* at almost every turning. For instance: if the boundary be a stream, one of the boys is tossed into it; if a broad ditch, the boys are offered money to jump over it, in which, of course, they fail, and pitch into the mud, where they stick as firmly as if they had been rooted there for the season; if a hedge, a sapling is cut out of it, and used in afflicting that part of their bodies on which they rest in the position between standing and lying; if a hill, they are to have a race on the top of it, when, in trying to pass each other, they fall over on each side,--some descending, perhaps, into the still stygian waters of a ditch, and others thrusting the 'human face divine' into a bed of nettles; if the boundary be a sunny bank, they sit down upon it, and get a treat of beer and bread and cheese, and perhaps a glass of spirits." The writer goes on to say, that "in years after, when the boys had become men, they would remember the brook by the wetting they had in it, the wall by the muddy ditch or the bed of nettles, the hedge by the flogging, and the sunny bank by the good cheer enjoyed upon it."

While the above custom and that of marking or beating the bound may have had a long and both dark and light history, it nevertheless developed to allow societies that had no written records or maps a way to pass on to successive generations of the community the location and extent of their territory. In addition, it was a legal "document" that asserted the rights of the 'landowners' and would define the extent of their territory. Limits were marked and memorialized during these regular 'perambulations'. Monuments would thus be able to be identified by extrinsic testimony in the future.



In addition to its practical value, today the perambulation requirement carries down to us the best of its components. The process provides a sense of belonging to a community, the importance of community, a connection to the land and previous and future generations, an understanding of one's place and locality in a larger continuum, and an opportunity to serve the community in a way that is connected to the past and to the future.

Most who have been involved in the official perambulation of their town report a sense of connection to history as well as to the current community and to future residents. In the perambulation process, one experiences a thrill upon uncovering 200 plus year old monuments – many with inscriptions on them placed by earlier perambulators. The team also uncovers other ancient evidence of habitation and experiences the forests and fields as they might have existed at the time of the earliest European settlers.

## **HISTORICAL DEVELOPMENT OF THE REQUIREMENT IN NEW HAMPSHIRE**

The following is a brief overview of the historical development of the perambulation requirement in New Hampshire. Appendix 5 is a compilation of all historical Acts and Statutes relating to perambulation.

The first requirement for perambulation of municipal boundaries was the 1651 statute promulgated in the Colony of Massachusetts (when New Hampshire was part of that Colony 1641 - 1680) (Provincial Act of 5 Geo. 1, Cap. 87 [Provincial Laws, 136]). This law required that:

“It is therefore ordered by the court and the authority thereof, that every town shall set out their bounds, within twelve months after their bounds are granted: and that when the bounds are once set out, once in three years, three or more persons of a Town, appointed by the selectmen, shall appoint with the adjacent Towns, to go to the bounds betwixt their said Towns and renew their marks. Which marks shall be a great heap of stones, or a Trench of six foot long and two foot broad...”

The next earliest requirement for perambulation created in the Province of New Hampshire was passed on May 2nd, 1719 . It required “that the bounds of all townships within the Province shall be perambulated betwixt town and town, and marks renewed once in three years.”

In 1791 (February 8<sup>th</sup>) (N.H. Laws, 1808, p. 195) an act was passed which changed the requirement to every seven years forever.

In 1796 (December 16<sup>th</sup>) residents of unincorporated places had the right to be notified of the perambulation by the adjoining “senior” towns.

In 1820 (December 23<sup>rd</sup>) (N.H. Laws, 1824, p. 46) an act was passed to allow the Court of Sessions to settle and establish any disputed town lines.

In 1827 (June 26<sup>th</sup>) (N.H. Laws, 1830, p. 444) Re-enacted Act of 1820 and the Court of Common Pleas for the County was given jurisdiction to “settle and establish” disputed town lines.

In 1842 Section 6, Chapter 37 Revised Statutes. Added that the decision of the court should be final and conclusive.

In 1858 An Act relating to removing boundaries of land and other monuments, made it a crime to “deface, alter, or remove” any monument marking the dividing line of land or towns.

In 1881 County Commissioners have jurisdiction to perambulate the lines of unincorporated places.

In 1903 any legislative enactment changing municipal boundaries must be ratified by two thirds of the voters of each town.

In 1935 a provision for additional perambulations, other than at regular perambulation times, if the selectmen of one town deemed it necessary.

In 1951 a rephrasing of the procedures whereby the Superior Court would examine disputed lines.

In 1969 required that in addition to placing the Return of the perambulation in the town books, it also be filed with the secretary of state.

In 1973 eliminated the fine for selectmen neglecting to attend to perambulations.

In 1983 making it a misdemeanor to knowingly remove or alter any boundary marker, including town line markers (RSA 472:6).

In 1998 (RSA 51:7 II) the Board of Land and Tax Appeals was given concurrent jurisdiction and similar authority of the Superior Court to settle disputes between towns as to the renewal and establishment of town lines and bounds.

## **THE CURRENT STATUTORY REQUIREMENTS**

Appendix #4, Current N.H. Statutes relating to Political Boundaries has a complete text of RSA 51, the perambulation statute in this State. Essentially the requirement is that:

“The lines between the towns in this state shall be perambulated, and the marks and bounds renewed, **once in every seven years forever**, by the selectmen of the towns, or by such persons as they shall in writing appoint for that purpose.”

## **OTHER CURRENT TOWN PERAMBULATION REQUIREMENTS AND EXPERIENCE IN NEW ENGLAND**

### **Massachusetts:**

Annotated Laws of Massachusetts: Title VII Chapter 42:2 ; Required every 5 years.

### **Maine:**

Maine Revised Statutes Annotated Section 2001-A: Required every 5 years. Every 10 years if all stone monuments. Apparently this statute has recently (2003) been repealed.

**Vermont:** No perambulation requirement found.

More about State and Canadian boundary lines is discussed on page 20.

### **III. PERFORMING A PERAMBULATION**

The objective of Part III is to, by historical research and interpretation, gain an understanding of what the Municipal line is supposed to be, where that line is on the ground, and to perpetuate and preserve evidence of that line.

This section has been divided into three “steps.” The first step is to collect as much information as possible prior to going in the field. The second step is the actual performance of the perambulation. And the third step is the preparing and filing of the report of the perambulation as required by state law. This document will be prepared in such a way as to make all subsequent perambulations much easier.

#### **STEP 1: COLLECTING THE EVIDENCE; GATHERING AND RESEARCHING INFORMATION ON TOWN LINES AND MONUMENTS**

The goal of this first step is to collect as much of the ‘record’ information as possible in order to provide an accurate historical interpretation and understanding of where the municipal line is on the ground.

#### **HISTORICAL CONFLICTS OVER POLITICAL BOUNDARIES IN NEW HAMPSHIRE**

Before beginning to describe the documents that created the town lines, an historical perspective is important. While many people know of the general history of the settlement of the New England colonies, the story behind the disposition of the territory, which was considered vested in the Crown by discovery and conquest, was a long and laborious one.

From the original 1620 Crown (James I) patent to Sir Ferdinando Gorges (1566-1646) and Captain John Mason (1586-1635) - to all the lands in America between the 40<sup>th</sup> and 48<sup>th</sup> parallels from sea to sea - until the final disposition of the New Hampshire – Vermont boundary by the US Supreme Court (a case that lasted from 1915 to 1936), there was contention. Constant disputes arose over various grants, long continued occupancy, ‘conveyances’ from the ‘aboriginal masters of the domain’(instances where settlers obtained ‘deeds’ or ‘grants’ from the indigenous natives), and repeated changes in the conditions of colonial jurisdiction (New Hampshire was part of Massachusetts from 1641 to 1680) as documented in the early records. Richard Archer points out in his book *“Fissures in the Rock, New England in the Seventeenth Century”*:

“Border disputes ... were common throughout the region. Most towns formed during the first fifty years of English colonization claimed huge amounts of land and possessed imprecise borders – perfect tinder for flaming words and fiery acts.” (p.139)

Later he says:

“The imprecision of town lines came from Indian purchases that occasionally overlapped and that were based on changeable physical features, from careless colonial grants, from sometimes unscrupulous land speculators, and from land-hungry settlers. Colonial governments overwhelmed by the illusion of vast, unpopulated wilderness and desirous of expanding their jurisdiction often gave land that was not theirs to give and, for roundheads, where most cavalier in designating boundaries.”(p. 139)

As recently as 2002 the US Supreme Court heard a case between the States of New Hampshire and Maine as to the location of the state line along the Piscataqua River in Portsmouth.

### **INDIAN STREAM REPUBLIC**

No publication of New Hampshire dealing with tangled boundary lines would be complete without mentioning the story of the Indian Stream Republic in the northernmost part of the State. The story is a classic example of a written definition for a boundary line that while it seemed so clear and specific to the writer, turned out to be such a source of consternation, confusion and dispute to a later generation forced to try to interpret the intent of the written document.

In the late 1700's and early 1800's a boundary dispute arose between New Hampshire and Lower Canada over a poorly written boundary line description. The problem originated with a peace treaty signed between the U.S. and Great Britain in 1783, which established the northwestern boundary between New Hampshire and Canada as th, ".....northwestern head of Connecticut River....". Unfortunately, there were differing opinions about which branch of which stream was the true head of the Connecticut River and which other streams were merely tributaries. Both countries claimed the disputed and fertile Indian Stream Territory that was inhabited by approximately 360 people in 1831. These inhabitants were forced to pay property taxes to both New Hampshire and Canada. The Canadians also attempted to compel some of the men to perform military service for the Canadian government.

Fed up with the dispute and looking to resolve the situation once and for all, the inhabitants met and concluded that they owed no allegiance to either country and that they would be better served as their own independent nation. So in 1832 the inhabitants formed the "United Inhabitants of the Indian Stream Territory", complete with a constitution, assembly, council, and militia. For three turbulent years they maintained their separate domain until a considerable military force was brought to bear against them by the U.S. authorities. In 1840 the boundary was officially and permanently fixed along Halls Stream and the inhabitants at that time had to either agree to submit to New Hampshire governance, or move across the newly established Halls Stream boundary into Canada.

The source reference information or footnote citation for the above is: *New Hampshire, A Bicentennial History*, by Elizabeth Forebes Morison and Elting E. Morison, published by American Association for State and Local History, Nashville, Tennessee, copyright 1976.

## **COLLECTING THE EVIDENCE**

### **THE “ORIGINAL” LINE**

Other than the four ‘original’ towns of the state; Dover, Exeter, Hampton and Portsmouth (from which over 25 current towns descended), the origin of the majority of the towns in New Hampshire was through “charters.” These were issued from one of three authorities having authorization from the crown:

- Grants from the Governor and Council of the Province of New Hampshire
- Grants issued under the authority of the Massachusetts government
- Grants from the proprietors of the Masonian title

Royal Governor Benning Wentworth granted some 200 towns (130 in present day Vermont) between 1741 and 1767. In 1760-61 (after the surrender of the French at the battle of Quebec ended the French and Indian War) he made the largest number of grants.

So the first task of someone researching town lines is to obtain a copy of the description of the “original” line.

Copies of these charters and in many cases the original town layout (“lotting” plans) can be found in *The New Hampshire Provincial and State Papers*, a collection of original documents compiled at the end of the nineteenth century. Specifically, Volumes 24 through 29 are the Town Charters ( Provincial Authority Grants; Vols. 24, 25, and 26, Masonian Proprietors Grants and Charters; Vols. 27 and 28).

An excellent location to collect this and other historical information about the town is at the N.H. State Archives, 71 South Fruit Street, Concord, N.H. Among other things, a list of the documents that the Archives has for each town in the state can be seen at their website (<http://www.state.nh.us/state/index.html> ).

*SAMPLE CHARTER: See Appendix 6*

*SAMPLE LOTTING PLAN: See Appendix 7*

*SAMPLE OF TOWN INFORMATION AT STATE ARCHIVES: See Appendix 14*

### **A NOTE ABOUT STATE LINES AND CANADIAN BOUNDARIES**

Of the 4,000 miles of town lines in the state approximately 550 miles are along neighboring states or Canada. There is information about the location of and monuments along these lines from various sources. In most cases the best initial contact for detailed information would be the N.H. Department of Transportation, Survey Section (271-1600) or the other states’ transportation agencies. In Appendix 4 the relevant statutes requiring perambulation of the state lines are provided.

**Massachusetts:**

The state line was established and finally accepted by N.H. Act on March 22, 1910. Perambulation is required every five years per General Laws of Massachusetts Part I, Title I, Chapter 1, section 4 as well as per N.H. RSA 1:1.

In addition to the official state line monuments there are apparently other town bounds that have been placed between them.

**Vermont:**

The common state line along the Connecticut River was finally established (settled) by the U.S. Supreme Court Case 290 US 579 in 1936. A publication, listed in the "References" section gives a detailed description and photos of the official monuments along the line.

Perambulation of the state line is required every seven years per N.H. RSA 1:15 and Vermont Title I, Chapter 15, 611-618.

**Maine:**

The Maine-N.H. line was established in August of 1740 by royal order. A Perambulation is required every seven years per N.H. RSA 1:8a and Maine Title 23, Part I, Chapter 13.

**Canada:**

The Canadian-U.S. line was defined by treaty and most of it surveyed by 1874. It is maintained by the International Boundary Commission. Their current web address is: <http://www.internationalboundarycommission.org/ibcmenu.htm>

As an aside, an interesting aspect of the Canadian-U.S. line is the way the Commission dealt with an 18 inch error. The following was supplied by Mark Stevens of Canterbury, N.H.

In 1842 the Webster-Ashburton Treaty (named in part after the N.H. Statesman Daniel Webster) was written to end 60 years of haggling over the international boundary between the US and Canada resulting from an unclear boundary description written into the Treaty of Paris as signed in 1783.

After the Webster-Ashburton Treaty was executed, the two countries then set about to mutually survey the length of the border from the mouth of the St. Croix River in Maine and New Brunswick to the St. Lawrence River in Quebec/New York. One survey team started on one end and proceeded east, while the other team started at the other end and proceeded west. They concluded the work in 1847 eventually meeting in Pittsburg, N. H., at the point that is now the only international border crossing between Pittsburg, N.H. and Chartierville, Quebec.

At the point where the two survey teams came together, **they discovered that they “missed” slightly and had a discrepancy of approximately 18 inches.** Considering the total distance that was surveyed and the equipment and technique that were available to them at that time, a discrepancy this small is really a remarkable achievement. At that time the two teams could not reach agreement about the proper location of that point, so TWO boundary monuments were erected separated by less than two feet, and have remained in place side by side for more than 150 years.

This double monument is now recognized as Monument #484 by the International Boundary Commission responsible for the perambulation of this border, and it remains an unresolved boundary dispute (although a friendly one) between the two nations. This 18 inch +/- wide swath of land lying between the two monuments is claimed by both sides, yet treated as “no man’s land”. In reality it belongs to one country or the other, it just hasn’t been determined which one - at least not yet.

## **CHANGES IN THE “ORIGINAL” LINE**

After the creation of the towns, there were subsequent requests by the inhabitants or others to modify the lines for a variety of reasons. In some cases, the original territory was too large for inhabitants to easily reach the town center for meetings and voting. Thus they would ask for the line to be modified or a whole new town created (example Somersworth out of Dover in 1729). In other cases, individual landowners would request the legislature to modify a part of a line to either encompass or exclude their particular landholdings. These Charter Line modifications can be found in the Acts of the Legislature. An index of these Acts (by town) can be found at the N.H. State Archives. Appendix 3 “Boundary Changes; Counties and Towns” while useful, was compiled early in the Twentieth Century and should not be considered up to date.

*SAMPLE TOWN LINE MODIFICATION: See Appendix 9*

## **COURT CASES RESOLVING DISPUTES IN THE LINE**

Although the establishment of municipal boundaries is entirely within the control of the Legislature, the New Hampshire Supreme Court has been asked, on numerous occasions, to settle issues relating to town lines and perambulation. A listing of some of these cases is provided in the appendices (Appendix 23).

Since 1827 the State Statute on town lines has included a provision (currently Chapter 52:7) whereby if the officials of two towns have a dispute as to the location of the town line, they may apply to the County Superior Court to “settle and establish” the lines. The State Supreme Court still has an appellate role on any questions of law.

## **TOWN PERAMBULATION RECORDS**



Technically, there should be official perambulation reports every seven years in the town records of each municipality in the state. The first place to go for these earlier perambulation records is the town office.. Realistically, one might hope to find at least some records in the current town hall. Certain municipalities have a great deal of information on their town lines that has been collected over the years. Other towns have very little information. In addition, the N.H. State Archives in Concord has some of the older perambulation records for some towns as well as any recent ones that have been filed with them. Neighboring towns may have some useful information on their common line that your town might not have. But whatever perambulation records can be found become the starting place, along with the original charter and subsequent changes, for the current perambulation.

*SAMPLE PERAMBULATION REPORT: See Appendix 11*

Remember that all of the information you gather together to perform the perambulation will be needed in case there is a need to resolve any disputes. Some information will have more evidentiary weight than others but nothing should be ignored.

## **THE LEGAL WEIGHT OF HISTORICAL PLANS AND PERAMBULATIONS**

1. Weight of evidence for **historical town plans and notes** (24 NH 405)  
**Ancient maps** are evidence (not conclusive) 24 NH 405, 98 NH 84

### **Adams v. Stanyan** **24 N.H. 405 – July 1852**

“Ancient maps of the towns of this State, made by the authority of the legislature, are *prima facie* evidence of the true lines between the several towns designated on the map, and are competent to be submitted to a jury, as tending to show the lines between the lands of individuals whose lots are bounded by the town lines”.

### **Hampton v. Seabrook** **98 NH. 84 – March 1953**

“Certain ancient maps were of evidentiary value in determining the true line between two adjoining towns”.

2. Weight of evidence for historical **perambulation records**:

### **Lawrence vs. Haynes** **5 N.H. 33 – August 1829**

“But perambulations of the said line by the selectmen of the towns were held to be evidence in a suit between L. {Lawrence} and H. {Haynes}”

“these perambulations when legally and amicably made must be evidence of the lines between towns. Indeed, when any particular line has been long thus perambulated, the perambulations afford very strong evidence that it is the true line”.

## **COLLATERAL / PERIPHERAL INFORMATION**

There are numerous additional (non-primary) sources of historical information that may shed light on the location of the town lines in the past and currently. Since they are not the “official” records, some care must be exercised in relying too extensively on them.

## **COUNTY REGISTRY OF DEEDS RECORDS**

Obtaining copies of any recorded survey plans of private parcels along the town lines would provide information on what evidence has been found and what interpretations have been made over the years by surveyors along the municipal boundary. Not all survey plans have been recorded, unfortunately, but those that have may be of great assistance in the research. Plans are usually filed in the County Registries of Deeds by town, road name, and landowner. Since these survey plats may have been done anytime over the last three hundred years, the owners’ names and even the road names may have changed. It will take some persistence and investigative skills, but the information obtained will most often be worth the effort.

## **TOWN ASSESORS MAPS (TAX MAPS)**

Probably the first thing to remember when consulting tax or assessor maps is that they are NOT survey maps, nor are they intended to be. While there are many excellent town tax maps, they can be very inaccurate and so should be used ONLY as a general indication of land parcel configurations. They still will provide some useful information in preparing for the field search. Another benefit of consulting the tax maps is that the landowners along the line can be identified for notification and permission.

## **TOWN HISTORICAL SOCIETIES**

While town lines per se are not usually a particular area of interest for historians, the vast knowledge of members of a town Historical Society can be invaluable in providing guidance on where to find information that may assist in establishing the development of the municipal boundaries. This group will also be a good source of old maps of the town, as well as published town and county histories.

## **HISTORICAL AND CURRENT USGS TOPOGRAPHIC MAPS**

Field investigations can be facilitated by having a current topographic map of the area. Land features such as streams, swamps, hills, etc., as well as built-features such as

power lines, roads, trails, and buildings will be visible on such maps. As part of the historical research, older issues of the topographic maps produced by the US Geologic Survey may provide additional clues. The University of New Hampshire Library has a collection of these historical maps that have been scanned and can be viewed (and downloaded from) at their website: <http://docs.unh.edu/nhtopos/nhtopos.htm>. The GRANIT system has current digital (scanned) topographic maps for the state available for downloading. Their website is <http://www.granit.sr.unh.edu>.

## **BLISTER RUST MAPS**

These are hand drawn maps made by foresters in the early part of the twentieth century to control a white pine disease. They were often drawn using aerial photographs as a base. They show approximate built features (walls, fences, roads, edge of woods, etc.) that existed at that time. They may provide assistance in searching for monuments. The State Archives has a collection of these for as many of the towns as could be assembled.

## **“1805” TOWN MAPS**

In 1802 the legislature passed an act requiring each town in the state to perform a survey and locate roads, town lines and other geographic features (State Laws of 1805, 207). Due to lack of funding and other problems, including trying to piece all of the surveys and maps together (not at all unlike the current day problem with town tax maps and the State GIS), it was not until January 1812 that a copy of the entire state map was filed with the Secretary of State. By 1816, Philip Carrigain, the former Secretary of State privately produced copies entitled “A Map of New Hampshire” for sale at 1000 rods / inch. This is considered the first map of the state that included all town and county boundaries.

The original individual town maps that were produced for the state map are available for viewing at the State Archives. These survey plans vary in quality. Many are excellent, and they all provide a snapshot of the current understanding of what the town lines were at the beginning of the nineteenth century.

*SAMPLE 1805 TOWN MAP: See Appendix 8*

## **STEP 2: SEARCH FOR THE EVIDENCE; FIELD INVESTIGATION OF TOWN BOUNDS**

After collecting as much information as possible on the original description in the town charter, any possible subsequent revisions to the line by the legislature and or the courts, and as many of the town perambulation reports and other record and map information as can be found, the actual search for the line and its monuments can begin.

The goal in this step is to try to use all of the ‘record’ information, uncovered in the previous step, to assist in the search for physical evidence that will be found in the field. This stage of the task is often likened to a ‘scavenger hunt’.

### **HISTORICAL PERSPECTIVE IS IMPORTANT**

Prior to going out in the field, it is important to appreciate the conditions that existed on the land around the time the original line was laid out. After the charter for the town was issued, the marking of the boundaries was performed as best as could be determined from the descriptive words (‘calls’) in the original charter. In addition to the description being somewhat unclear, the surveying equipment was relatively crude and the terrain was, in most cases, wooded, steep, and difficult to traverse. As Charles Clark points out in his book, *“The Eastern Frontier”*:

“...Burdened with axes and flintlocks as well as a brass theodolite (compass), wooden tripod, and iron chains, the surveyors had to edge through thickets, climb ledges, skirt ponds, and plod over an endless succession of hills and valleys. Slapping at mosquitoes, they were often forced to tramp through a swamp or wade across a stream until they could feel the water swish within their boots at every step, even after they had reached dry ground again. Their hands and faces were raked with blackberry briars and stung by saplings which whipped back at them after catching on the surveyor’s chain or the clothing of a companion.” (p.185)

The best time to perform the survey was in the late fall or early spring when the leaves were off the trees and the snow was not too deep and when the rivers, swamps, and lakes were iced over. Today, this is probably still the best time to perform the perambulation.

With magnetic compasses, whose variation from true north changes over the years, as well as from place to place, and a 66 ft. chain made of 100 links that caught on every bush and branch, the surveyors and assistants attempted to lay out the specific calls for distances and directions in the Charter. It was difficult to accurately measure true horizontal distances. The surveyors could not prevent the chain from sagging. They would instead measure along the ground and use some rule for adjusting the distance (such as adding one chain for every 30 measured). In steep terrain a half-chain might be used to attempt to keep it level in order to measure ‘horizontal’ distances.

Jeremy Belknap, in his 1816 *The History of New Hampshire (Vol. III)*, wrote: “Surveyors are often sworn to go according to their best skill and judgment; this they may do with great sincerity, and yet, for want of better skill, may commit egregious mistakes.”

Samuel Lane was a surveyor from Stratham who was involved in laying out and perambulating the Bow town line in 1748 and laying out lots in Holderness in 1752. In his recent book about Lane, Jerald Brown (p. 85) quotes Samuel’s grandson as recalling that “After he (Samuel) had been out on one of those Surveying tours for a long time, the Sun and the Black Flies, the Moschettoes etc. had so altered his countenance, that when he returned home, his Family scarcely knew who he was.”

So, before going into the field with our current concept of the accuracy and refinement of modern surveying measurements (with electronic measurement devices and the Global Positioning System) in mind, it is important to understand and appreciate just when and how the original lines were run. Given the accuracy that might be expected, one must both temper one’s expectations as well as not be discouraged when a search does not at first uncover an expected monument. By realizing the conditions and methods used when the lines and monuments were originally set, one may be able to envision alternative locations to search and find the monument.

Another fact to consider as you perambulate between the bounds and you try to locate monuments and other physical evidence between them, is that in many instances, the more recent perambulation records of the towns reflect “perambulations by auto.” Starting from a town bound near one road, the members of the perambulation party would simply drive to the next bound located near a road and view it. No attempt was made to try to actually traverse between the bounds although there is no dispute that that is what the statute intends.

## **A NOTE ON MEASUREMENT AND DIRECTIONS**

As the information is collected on the original charter, subsequent revisions, and previous perambulation record or reports, the specific recitations of directions and distances (courses) will use magnetic bearings for directions and rods and links for distance. Two appendices: “A Note on Magnetic Declination and its Variations” and “A Note About Rods and Links” are included in the back of this report, which attempt to give a brief overview of these measuring units and some of the variability that may occur as one tries to relocate the original lines and monuments.

## **NOTIFICATION OF LANDOWNERS**

Prior to entering the field to search for physical evidence of the town lines and monuments, one must remember that land on both sides of the line is most likely privately owned. So permission must be obtained to go on to the property to look for evidence. A list of the landowners along the various sections of the town lines can be obtained from the assessor’s office using the tax maps to identify the landowner’s name and address. The team should attempt to notify these landowners by letter or phone prior to the field work and obtain permission to enter the property to search for evidence. Copies of the letters of authorization from the town officials should be carried with the team in the field to show to any questioning individuals.

No new marks, monuments, or blazes should be made on a landowner’s property without their knowledge. Even renewing the marks should be done, if possible, with the awareness of the landowner(s). While the town has a legal right to have their representatives access the property to perform the perambulation, this does not give any rights to damage or destroy anything.

For landowners who may own land on both sides of a town line, another issue to alert them about is that there may be trees on their property with marks on them from previous perambulations. Any tree harvesting or improvement work should be done with care to identify and preserve these trees. If they need to be removed, the town should first be given an opportunity to document the evidence and its position before it is destroyed (see RSA 427:6)

## **GATHERING MAP AND DATA**

### **Bound Numbering and Sequencing**

To assist in the field search for town monuments and other evidence, it is important to prepare in a systematic way. Based on all of the written records collected, the first task would be to identify all of the possible monuments that might be found and to number them in a consistent manner – going clockwise or counter-clockwise around the town. Information that was collected from neighboring municipalities may disclose

what they have found and what numbering sequence they have used. It can be confusing if both towns are not using a common system. Also, have a system that can accommodate for those bounds that are numbered and then cannot be found and for other unknown bounds, not numbered, that might turn up. One possible system is to use the full names of both (or more) of the towns that share the monument and then a number (ex. Gilmanton-Belmont #12). Letters can then be added to accommodate any additional evidence that might be uncovered.

To avoid the possibility of confusion and mistakes, what is needed is a statewide numbering system. One suggestion is to use the 5-digit Federal Information Processing Standard (FIPS) coding number that has been assigned to each municipality as the prefix for individual monument numbers. The FIPS code for each town sharing the monument would precede a sequential monument number. For example, a monument along the Keene/Roxbury boundary might be numbered 05045-5075\_1. In another case, the common corner for the towns of Groton, Rumney, Wentworth, and Dorchester would be numbered 09080-09165-09185-09050\_Bound #\_\_\_. Further, the actual Bound # might increment by ten, thereby allowing for the insertion of identification numbers as future monuments are placed or unknown monuments are located. While this system may yield somewhat cumbersome identification numbers, it does ensure that eventually every town line monument in the State would have a unique identifier.

A second proposal for generating town bound identification numbers that are unique within the State is to base them on the actual ground coordinates of each bound. This might take the form of a hyphenated ID, where the prefix is the X-coordinate of the bound and the suffix is the Y-coordinate. In keeping with all GRANIT data layers, the coordinates would be reported in NH State Plane feet, NAD83. It is clear that a single physical monument could acquire multiple distinct ID's through this process, due simply to data collection/rounding errors. Thus, it is recommended that the ID be constructed from the actual coordinates truncated to the nearest 100 feet.

Based on the above, a boundary monument along the Durham/Newmarket town line with the following NH state plane coordinates: 1179996,215915 would inherit the following ID: 1179900-215900.

### **Individual Enlarged Maps, Data Sheets, and Air Photos for Each Bound**

Once individual identification numbers have been assigned to the bounds that might exist, detailed maps or diagrams and data sheets can be prepared for each bound. The starting document here might be a current USGS topographic map enlarged for the area in question. There are a number of inexpensive software packages that provide all of the maps for the State for less than \$100. Distances and directions can be measured on these digital maps and marks and text added before printing.

A data sheet attached to the bottom of each of these individual bound maps should have spaces for notes, measurements, etc.

Another useful graphical search tool would be a current (or older) aerial photograph of the area around each bound, also enlarged for the specific vicinity that will be searched. The features that are visible on an air photo, combined with those details that are on a topographic map, will provide the search team with a variety of visual clues. The GRANIT system has the capability of allowing a user to generate maps online (from the USGS topo maps as well as from 1998 aerial photography) at <http://www.granit.sr.unh.edu>.

The town of Nottingham, N.H. has placed a perambulation record on the town website. They have used the digital topographic and digital air-photos (orthophotos) available online from the state GIS, GRANIT, to create location images for each of the bounds along the line. The Nottingham web site address is:

<http://www.mv.com/ipusers/nearl/nottingham-nh/node27.html>.

*SAMPLE TOPO MAP AND AIR PHOTO: See Appendix 24*

### **Town Line Course Tabulations**

Next, the various perambulation descriptions that have been found should be tabulated by “courses” (distances and directions between bounds). This provides a textual “map” to go along with the other graphical aids discussed above. By listing the distances, direction and monuments called out in the older perambulation records over a variety of years, the team may uncover where changes were made and discover some information lost from earlier perambulations.

*SAMPLE COURSE TABULATION: See Appendix 12*

This collection of documentation, taken out to the field should facilitate the search for town bounds as well as help to explain other evidence that is found. It will also provide documentary information for inclusion in the final perambulation report.



## **STEP 3: PERFORMING THE OFFICIAL PERAMBULATION**

*“The lines between the towns in this state shall be perambulated, and the marks and bounds renewed, once in every seven years forever, by the selectmen of the towns, or by such persons as they shall in writing appoint for that purpose”*

N.H. RSA 51:2

Once the records have been researched, the maps reviewed, and investigations have been made in the field, it is appropriate to gather together the individuals from both towns who will be performing the perambulation of a common boundary.

### **WHO SHOULD PERFORM THE PERAMBULATION**

The perambulation statute specifically states, “...by the selectmen of the towns, or by such persons as they shall in writing appoint for that purpose” (RSA 51:2).

The N.H. Municipal Association in its *Handbook for Local Officials* (June 2001) recommends that:

“If the selectmen appoint others, the written appointment should include a statement of the purpose of the appointment, the specific duties delegated to those appointed, the date of the writing, and should be signed by the selectmen.

The governing bodies of two adjoining municipalities may appoint the same individual to run the lines between the municipalities, which, if done legally, will be regarded as a perambulation of the municipal boundary line according to *Adams v. Stanyan*, 24 N.H. 405 (1852).”

Many towns have a N.H. licensed land surveyor perform the task. In some instances both towns will share the cost of the same surveyor. The selectmen from each town may accompany the surveyor. Any number of scenarios is possible. But in all cases, there must be an ‘official’ appointment, in writing, by the municipal officials for the individuals who will perform the task and report on the findings. If new monuments need to be set or replaced, a licensed land surveyor is required as discussed in Section IV.

Some have suggested that the towns try to have the fire and police chiefs attend the walk to familiarize themselves with the limits of the municipal authority and liability.

### **EQUIPMENT FOR PERAMBULATION**

The following is a possible (but not inclusive) list of what the perambulation team might want to have with them:

- Metal detector
- Flagging/paint
- Chisel and hammer
- Compass

Measuring tapes  
GPS receiver  
Camera  
Clip board and paper/ field book for location sketches

## **FIELD PROCEDURE DURING THE PERAMBULATION**

Since the purpose of the perambulation is to “walk the line”, it would be useful to begin at the corner of one of the two (or more) towns and to proceed clockwise or counterclockwise from bound to bound. As the team proceeds, bounds should be renewed with markings, repainted, flagged, photos should be taken, locations should be sketched, and notations made on evidence found along the line. The courses and distances taken should also be noted as well as the conditions of the bounds or other marks.

Some pre-planning is suggested as to where to all meet, where to have vehicle(s) dropped off so that the group does not have to backtrack, lunch and break times, who is bringing what equipment, duplicate compasses, etc.

A subsequent section will make recommendations for procedures should a GPS position be observed.

### **Making New Marks and/or Setting New Bounds**

Making new marks or setting new monuments should not be part of the perambulation. Only the renewing of existing monumentation should be done at this time. If a need appears for new marks to be set or new bounds to be placed, it may necessitate approval from the State Legislature and certainly should not be done without a licensed land surveyor involved. There is more on this in the section on legal issues (IV).

## **GPS POSITIONING**

The Global Positioning System (GPS), is a system of satellites in space sending signals down to earth which, when picked up by specific receivers, allow the location of the receiver to be determined. It is becoming a more all-pervasive technology every year. More and more automobile manufacturers are even offering it as an option with new car purchases.

The use of some type of GPS receiver to locate or “position” the found bounds during perambulations will tie them into the worldwide latitude, longitude system. This will allow future perambulation teams to more rapidly find the monuments by “navigating” to the recorded positions. In addition, by using the positions of two found town bounds on either end of a line, the perambulation team will be able to use the navigation feature of the GPS receivers to walk from one bound to the next with the receiver directing the team and keeping them ‘on the line’.

## TYPES OF GPS RECEIVERS

There are essentially three main types of GPS receivers, each more expensive than the last, but providing higher “positional accuracy”:

### RECREATION GRADE RECEIVER:

Priced from \$100 to \$600 with positional accuracy in the +/- 30 foot range.

### RESOURCE/MAPPING GRADE RECEIVER:

Priced from \$3000 to \$6000 with positional accuracy in the +/- 30 foot range.

This type of receiver is equipped to be “differentially corrected” either in real time or after returning to the office using provided software. The positional accuracy can be refined from +/- 3 feet to +/- 0.3 feet using this feature.

### SURVEY/GEODETIC GRADE RECEIVER:

Priced from \$8000 to \$30,000 with “differentially corrected positional accuracy of +/- 1 foot to +/- 0.1 foot.

If more precise equipment is available, it would always be better to get the most accurate position possible. For the purposes of town line perambulation, the recreation grade receivers provide rough positions while the mapping grade receivers provide adequate positional accuracy. Only survey grade receivers should be used if there is a need to replace or reset a monument.

In many cases the old monuments found are one to two foot square in size. Trying to determine which point on the monument to use, especially when the monument is leaning is always a challenge, particularly for the more precise boundary line surveys performed by licensed land surveyors. As a general rule, the center of the monument as it meets the ground surface is probably the best assessment of the original position of the monument.

## COORDINATE SYSTEM TO USE: NAD 83 GEOGRAPHIC

No matter what type of receiver is used, it would be **best to obtain positions in the geographic coordinate system of Latitude/Longitude**. While some receivers are capable of transforming the raw three-dimensional x,y,z position that the GPS determines to a number of coordinate systems, including Universal Transverse Mercator (UTM) and New Hampshire State Plane Coordinates (N.H.SPC), the Latitude/Longitude is probably the most common one used. These geographic coordinates could always be transformed later should that be necessary.

If the GPS system is used to position the found monuments, probably the most important thing for unfamiliar users to watch for is what “datum” to tell the receiver to use. A datum can be thought of as the shape of the earth used to perform the calculations. Over the history of Geodesy, a large number of local and worldwide datums have been developed depending on the knowledge at the time. The newer ones, using more modern

science, do a better job of modeling the real earth. For the foreseeable future the **ONLY datum that should be used is the one named the North American Datum 1983 or NAD83**. This is ‘essentially’ the same datum known as WGS84 (World Geodetic Surface of 1984).

## **OTHER GUIDELINES FOR USING GPS**

If, in addition to collecting latitude and longitude, the unit is capable of also collect a position as NAD 83 New Hampshire State Plane Coordinate – feet (NAD83 N.H.SPC) this should be done. The State GIS is in this system.

Collect the position as close as possible to the center of the monument as it enters the ground - if possible.

### **Length of time to collect data:**

After collecting the first position given by the receiver, along with its relative accuracy, wait 15 minutes, re-observe the position and record the second position obtained and its relative accuracy. This second observation provides some assurance as to the reliability and repeatability of the position of the monument. While waiting the 15 minutes, the team can take pictures (digital if possible) and make location diagrams, with swing-tie measurement to fixed re-locatable objects, for the report.

The length of time needed to collect one position varies depending on the GPS unit used. It is probably safe to allow the receiver to collect satellite information for at least three to five minutes for a single position. Given all the time and effort it has taken to get there, spending a few more minutes collecting a good position is always a wise decision.

If no GPS signal can be received:

Move to more open ground nearby and collect two positions 100 or more feet apart.

Then, observe and record magnetic bearing between the two points.

Then, from both GPS positions, measure and record the magnetic bearing and taped distance to the obstructed bound.

A coordinate for the bound can then be computed.

### **Assessing the accuracy of the GPS position that you obtain:**

If someone would like to get a rough idea of the reliability of the positions that their GPS receiver displays, one method of testing the receiver and antenna would be to locate a known geodetic control station and observe and record a GPS position with the receiver at that station. Then compare the position obtained for the published position for that station. This technique will be very rough at best and will not be consistently repeatable with lower grade receivers, due to the varying positions of GPS satellites over time and thus the solutions obtained. However, the two positions should be within the manufacture’s stated positional accuracy.

**Navigating between found monuments:**

Once municipal monuments are found at either end of a line, these GPS positions can be stored in the receiver as “waypoints.” The group will then be able to start at one of the monuments and have the receiver “navigate” them to the other monument. The receiver will constantly display the distance to go, the direction, which way to move to stay “on line,” even how long it will take you to get there at your current rate. Remembering that with the overall accuracy of the units at +/- 30 feet, the information in the display is “rough.” It will, however, allow the team to walk very close to the straight-line distance and to search for and observe other evidence.

## **STEP 4: THE RETURN OR REPORT OF THE PERAMBULATION**

*“A return of the perambulation shall be made, particularly describing the courses and distances and the marks and monuments of such line, which shall be signed by the selectmen or persons making the same, recorded in the respective town books and filed with the secretary of state”*

N.H. RSA 51:4

The objective of the “return” or report is to memorialize for the future both the fact that the perambulation has been done and the specific facts about that task. Some possible items to include in the report are:

- Who in the neighboring town was notified and when
- Date of the perambulation and weather
- When and where the perambulation started
- Who was in attendance and their official relation to the town, if any
- Detailed description of perambulation route
- Describe the courses (distances and directions) and monuments found,
  - The condition of the monuments and
  - New or renewed marks made on monuments and along the line
- Note monuments searched for and not found, not accessible, or destroyed.
- Photographs, from various perspective and ranges
- Location diagrams with measurements from the bound to two or three fixed objects (ties). This should have sufficient information to allow anyone to find their way back to the monument area and using the specific tie measurement relocate the point.
- GPS coordinates obtained and how obtained:
  - Geographic: (Latitude/Longitude), NAD 83 Datum
  - Model GPS unit used
  - Name and qualifications of person making GPS measurements
  - Number of observations, length of time observed
  - Positional accuracy reported in display
  - Any post-processed positions and accuracy
- Any additional comments or observations
- Copies of pertinent document collected as part of the research
- Signatures of Selectmen or authorized person(s) on three original reports

### **Distances and Directions Found Along the Line**

Depending on the accuracy with which a perambulation is performed, the return may want to modify (improve) on the courses along a section of the town line. Many perambulation records seem to simply repeat the bearings and distances from previous documents – usually verbatim. There is a natural (and legal) reluctance to modify any of the words for fear that the officials will be overstepping their bounds, literally. Only the legislature has the authority to change town lines. Probably the safest thing to do is to use

the old calls and add an appendix indicating changes in directions and distances that were found in the current perambulation and how they were determined.

In general, we need to recognize that accuracies in surveying measurements have increased over time and the location of evidence today may differ in relative position from that called for in earlier records. “Variations during different time periods in the methods and standards of surveys should be considered when evaluating evidence” (Town Line Retracement in the State of Maine, 1995, Susan C. Libby)

Record the report in each town with a note that the third original was delivered to the N.H. Secretary of State. It is recommended that this be done by giving the report to the State Archives. A receipt should be obtained from the State Archives and filed with the report.

To assist in the eventual development of a statewide database of the monuments, reporting the coordinates of the monuments found (as well as how they were obtained) to N.H. GIS “GRANIT” is also strongly recommended. We are hoping to develop a web-based submission form for the GRANIT site. In the interim, an email to GRANIT staff at [granit@unh.edu](mailto:granit@unh.edu) would suffice.

## **IV. REVIEW OF N.H. LAW RELATING TO MUNICIPAL BOUNDARIES**

**Stephan T Nix Esq., LLS**

### **THE NEED FOR PERAMBULATION OF TOWN LINES<sup>1</sup>**

Perambulation is defined as “[t]he act or custom of walking around the boundaries of a piece of land, either to confirm the boundaries or to preserve evidence of them.” Black’s Law Dictionary 1156 (7<sup>th</sup> ed., 1999).

The New Hampshire Supreme Court recognized the importance of the definition as an act to confirm and renew in Pitman v. Town of Albany. “The object and intention of the legislature in these enactments could have been only to provide a mode for supplying fresh evidence, as often as once in every seven years, of the town lines, by a renewal of the old monuments and marks which fixed their location. The authority of the selectmen was in terms confined to renewing such marks and bounds -- reviving the lost or doubtful evidence upon the land itself of the true boundary. The acts did not contemplate a negotiation by the selectmen in behalf of their respective towns for establishing a line, or adjudication by the joint boards upon the question when it admitted of controversy or doubt. They were required to assent to and cooperate in the renewal of the marks and monuments upon the line which they understood to be the true and established boundary. Their proceedings were therefore ministerial rather than judicial.” Pitman v. Town of Albany, 34 N.H. 577, 580 (1857).

The legislature recognized the importance of the renewal and the transfer of the information to the next generation of town officials. The statute requires “[a] return of the perambulation shall be made, particularly describing the courses and distances and the marks and monuments of such line, which shall be signed by the selectmen or persons making the same, recorded in the respective town books, and filed with the secretary of state.” RSA 51:4.

Unfortunately, many people did not understand the importance of the perambulation returns and many have been lost over time.

### **STATUTORY HISTORY**

The decisions of the Supreme Court regarding town lines are generally driven by application of the statutory provisions to the facts of the case. In Appendix 5 there are copies of a variety of statutes relating to town lines, including the perambulation statute. A history of the statutory provisions provides the background.

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<sup>1</sup> The more familiar term “Town Line” will be used interchangeably with the more formal term “municipal boundary” in this article.



In 1876, the Supreme Court reviewed the history of the statutory scheme to that point:

The earliest statute which has come to my knowledge on the subject is the act of 1719. Province Laws, p. 136. This act appears to have continued in force until the year 1791, when the provision for recording the proceedings of the selectmen was enacted. The provisions of these acts for perambulation were substantially reenacted in 1827, on the revision of the statutes in 1842, and by the General Statutes of 1867. It is obvious to remark, that in these statutes no power is given to the selectmen, by agreement or otherwise, to establish a monument or a boundary. Their only function is to renew. The statute takes it for granted that the monuments being renewed every seven years, there could never be any difficulty or dispute about it. It supposes that there will be no difficulty in finding the marks and bounds, that the presence of the officers of each town would be a sufficient check upon those of the other, and that there could be no difficulty in making a satisfactory return, to be recorded in the books of each town.

The experience of thirty years, however, seems to have proved that this expectation could not be realized, and that cases would occur in which the selectmen would disagree about what marks and bounds were to be renewed; and it was found necessary to remedy the inconvenience by further legislation. This was effected by the act of December 23, 1820, by which it was provided that in case of a disagreement of the selectmen the matter should be referred to the court of sessions, whose decision should have the same effect as an agreement of the selectmen. By the statute of June 26, 1827, the same provisions, substantially, were enacted, excepting that the court of common pleas was substituted for the court of sessions. By the Revised Statutes of 1842, ch. 37, sec. 6, an important change was introduced, and it was enacted that the decision of the court should be final and conclusive.

Greenville v. Mason, 57 N.H. 385, 391 (1876)(Emphasis added).

The current statute, RSA 51 is substantially the same as the 1842 version with the exception that the Superior Court of the county is the adjudicating court.

However, in 1998, the legislature gave the Board of Tax and Land Appeals (BTLA) concurrent jurisdiction and the same authority granted to the Superior Court. Given the reliance on property tax to support both local and state budgets, the true location of municipal boundaries has become very important in BTLA cases. This provides an explanation for the amendment but does not overcome the BTLA's perceived lack of expertise in boundary law; it being a body designed more to decide disputed issues related to property tax valuation.

## **THE LEGISLATURE CONTROLS THE ESTABLISHMENT OF TOWN BOUNDARIES**

NHRSA § 51:9. Alteration of Town Lines, states:

No portion of the territory of any town or city shall be united with another town or city unless the legislative enactment providing for such union shall be ratified by 2/3 of the voters of each town or city affected, present and voting by ballot at the regular annual or biennial meeting for the election of town or city officers held next after the passage of such act. NHRSA 51:9.

The New Hampshire Practice Series on local government law states this clearly, Municipalities have no control over the establishment of their boundaries as this is entirely with in the control of the legislature. (Citing Crosby v. Hanover, 36 N.H. 404, 413 (1858)). In fact, even prior to the Revolution, it was recognized that the power to divide towns was strictly legislative and that the power to enlarge or curtail the size of a municipality or the power to create new towns rested entirely with the legislature. (Citing Bristol v. New Chester, 3 N.H. 524 (1826)).

## **RESOLVING DISPUTES IN THE LOCATION OF TOWN LINES**

NHRSA § 51:7,I. Disagreement, states:

I. When the selectmen of adjoining towns shall disagree in renewing and establishing the lines and bounds of such towns, the superior court for the county in which the town first incorporated or paying the highest tax as aforesaid is situate, upon petition and after notice to the other towns interested, shall, either examine said disputed lines or appoint a committee for that purpose, and the court's decision thereon shall be final; and the court may order either or both towns to pay the costs, as deemed just. NHRSA 51:7,I

## **WHAT ROLE DO THE SELECTMEN PLAY IN DETERMINING THE LOCATION OF TOWN LINES?**

The earliest case in New Hampshire law addressing town lines focuses on this issue. In settling a town line dispute between Gilmanton and Northfield, the Court found:

The authority given to selectmen, to renew boundaries, has always been considered to embrace the power to settle, by agreement, the true lines between towns. And the power to settle and establish disputed lines is expressly given to the sessions. But a power to

settle and establish is not a power to alter. A power to settle a line is only a power to determine where an existing line is; but a power to alter is a power to abandon an existing line, and establish a new one.

Gorrill v. Whittier, 3 N.H. 265, (1825)

In other words, the Selectmen's authority is to renew and reestablish by agreement the original line. They do not have the power to alter the location of the line by agreement. If the original location cannot be found or a location is disputed, the courts settle the matter.

The case of Greenville v. Mason, 57 N.H. 385 (1876) not only addresses this issue but gives a comprehensive overview of town line perambulation theory and case law to that point in time. It is worth reading the full text of this case for an appreciation of the historical purpose underlying perambulations.

The facts are seething with contempt. In 1872, the legislature created the Town of Greenville from parts of the Town of Mason with the boundaries following certain lots. (It is interesting that in this case, the town line follows private property lines!). In 1873, the legislature confirmed the 1872 act. The plot thickens:

[i]n substance, ... the selectmen of Mason, after due notice, met the selectmen of Greenville on the fifth day of December, 1872, for the purpose of fixing upon the line between said towns, and setting up marks and bounds according to law; that the selectmen of Mason, by certain false and fraudulent representations as to the position of the south line and the south-west corner of Mason, induced the selectmen of Greenville to consent to an incorrect and wrongful location of the line between said towns, and to sign a return establishing marks and monuments according to such incorrect location, whereby a part of the territory of Greenville was included within the territory of Mason; that the selectmen of Mason, admitting that the line is incorrect, claim that Greenville is bound thereby, and refuse to take any measures to correct the error, and assert that Mason will claim and exercise jurisdiction up to that line; and the plaintiffs pray that it may be ordered and decreed by said court that said return may be annulled, and that Mason may be forever enjoined from making any claim under it, and for such other relief as may be just.

Greenville v. Mason, 57 N.H. 385, 391 (1876).

As mentioned previously, in deciding the case, the Court reviewed the history and intent of the statute:

The earliest statute which has come to my knowledge on the subject is the act of 1719. Province Laws, p. 136. This act appears to have continued in force until the year 1791, when the provision for recording the proceedings of the selectmen was enacted. The provisions of these acts for perambulation were substantially reenacted in 1827, on the revision of the statutes in 1842, and by the General Statutes of 1867. It is obvious to remark, that in these statutes no power is given to the selectmen, by agreement or otherwise, to establish a monument or a boundary. Their only function is to renew. The statute takes it for granted that the monuments being renewed every seven years, there could never be any difficulty or dispute about it. It supposes that there will be no difficulty in finding the marks and bounds, that the presence of the officers of each town would be a sufficient check upon those of the other, and that there could be no difficulty in making a satisfactory return, to be recorded in the books of each town.

The experience of thirty years, however, seems to have proved that this expectation could not be realized, and that cases would occur in which the selectmen would disagree about what marks and bounds were to be renewed; and it was found necessary to remedy the inconvenience by further legislation. This was effected by the act of December 23, 1820, by which it was provided that in case of a disagreement of the selectmen the matter should be referred to the court of sessions, whose decision should have the same effect as an agreement of the selectmen. By the statute of June 26, 1827, the same provisions, substantially, were enacted, excepting that the court of common pleas was substituted for the court of sessions. By the Revised Statutes of 1842, ch. 37, sec. 6, an important change was introduced, and it was enacted that the decision of the court should be final and conclusive. Id. at 391. (Emphasis added).

Justice Cushing went on to find:

It seems clear to me, ...that the selectmen have no judicial powers. They cannot determine judicially any disputed question in regard to the lines. Their whole function is ministerially to renew the marks and boundaries which they find upon the land. If they cannot find the same marks and boundaries, or, in the words of the statute, "agree" the court has now power to decide the question. Id. at 396. (Emphasis added).

The Court went on to use its equity powers to enjoin the Selectmen of Mason from taking advantage of the fraudulently induced agreement as to the true location of the town line.

## **WHAT POWERS DO THE COURTS HAVE IN SETTLING A TOWN LINE DISPUTE?**

Again we revisit Greenville v. Mason for a short history of the Courts' statutory authority to settle town line disputes:

This was effected by the act of December 23, 1820, by which it was provided that in case of a disagreement of the selectmen the matter should be referred to the court of sessions, whose decision should have the same effect as an agreement of the selectmen. By the statute of June 26, 1827, the same provisions, substantially, were enacted, excepting that the court of common pleas was substituted for the court of sessions. By the Revised Statutes of 1842, ch. 37, sec. 6, an important change was introduced, and it was enacted that the decision of the court should be final and conclusive.

Greenville v. Mason, 57 N.H. 385, 391 (1876)(Emphasis added).

In 1846, after the amendment to the statute giving the authority to the courts to settle disputes, the Supreme Court visited the issue in Chatham's Petition. The Court found:

The statute is intended to give the court power to determine, in case of a dispute, where that line is; and by line is intended not only one that is marked or denoted by visible monuments, but the invisible, determinate common limit of the two adjoining territories. It is made the duty of the court to settle where this common limit is, and at the same time to set up monuments that shall render its position certain to a common intent. In this respect they have exactly the authority that the selectmen of the two towns, by their joint action and agreement, have by law. 1 Laws of N.H. 238; 2 Laws of N.H. 370; Gorrill v. Whittier, 3 N.H. 265. Chatham's Petition, 18 N.H. 227 (1846)(Citations in original).

From this case, we find that the Court serves the same function as the selectmen in reestablishing and monumenting the original line. However, the Court does not have the power to "alter" the original line, this power is reserved by the legislature. See Bailey v. Rolfe, 16 N.H. 247 (1844), Gorrill v. Whittier, 3 N.H. 265, (1825), Greenville v. Mason, 57 N.H. 385 (1876), Campton v. Holderness, 25 N.H. 225 (1852)(Court has power to assess costs in frivolous claim by selectmen of one town).

## **WHAT POWERS DOES THE BOARD OF TAX AND LAND APPEALS HAVE IN SETTLING A TOWN LINE DISPUTE?**

NHRSA 51:7,II states:

For a dispute as to the actual location of a town line arising in a matter on appeal before the board of tax and land appeals pursuant to RSA 76:16-a, the board of tax and land appeals shall have concurrent jurisdiction with the superior court and shall have the authority granted the superior court in paragraph I. **NHRSA 51:7,II.**

In 1998, the legislature amended the statute to give the Board of Tax and Land Appeals (BTLA) concurrent jurisdiction with the Superior Court in settling town line disputes. In Appeal of Meunier, the Supreme Court found that the BTLA's powers are, in effect, identical with the Superior Court's powers. The Superior Court dismissed Meunier's appeal due to lack of jurisdiction because the Selectmen agreed on the location of the town line. Meunier then appealed to the BTLA arguing "that the new language of RSA 51:7 , II provides concurrent jurisdiction to both the BTLA and the superior court, thereby allowing the BTLA to decide boundary disputes initiated by any aggrieved party." Appeal of Meunier, 147 N.H. 546, 147 (2002). The Supreme Court disagreed and found that "[a]lthough RSA 51:7 , II grants the BTLA and the superior court concurrent jurisdiction, paragraph I limits the superior court's jurisdiction to cases in which the selectmen of adjoining towns are embroiled in a boundary dispute. Therefore, the concurrent jurisdiction granted to the BTLA in paragraph II must be similarly limited." Id. at 549.

The Supreme Court's ruling was based on procedure and did not visit the underlying facts, which can be gleaned from the Superior Court Order. The selectmen of Barnstead and Strafford agreed that the wall separating Meunier from her abutter was the true town line, even though the wall was not mentioned in the perambulation returns. The termini of the town line in this area, which were called for in the perambulation returns, were located and surveyed. The straight-line inverse between the termini is some 100' from the stone wall. Applying the rules that a line between the termini is presumed to be a straight line unless otherwise stated; and that the description in the original grant controls over private property lines; raises the question as to whether the Superior Court did have jurisdiction based on the rule that the Selectmen cannot alter the original line but are limited to reestablishing the original line.

## **IN DETERMINING THE LOCATION OF TOWN LINES, DO THE SAME RULES OF BOUNDARY LOCATION APPLY AS TO PRIVATE BOUNDARY LINES?**

Municipal boundaries are created by legislative charters and not as grant by deed. This raises the question as to whether the same rules for boundary interpretation apply to

the charter as to a description in a deed conveying title to lands. The Court has consistently applied the rules of statutory interpretation and boundary law in settling cases involving ambiguous town line descriptions.

Rule: When a road or river is called for as a boundary, the presumption is that the boundary line runs to the center of the road or river unless there is clear language in the grant stating otherwise.

In Reed's Petition, the towns of Marlborough and Troy disputed the location of the town line running along a road. Troy was chartered in 1815 from Marlborough. The line at issue was described in the Troy charter as "to the Branch turnpike in Marlborough; thence southerly, on said road to the line of lot No. 9 ..." Reed's Petition, 13 N.H. 381 (1843). At issue was if the road was in one town or the other; or split down the middle.

In settling the case, the Court stated "Where there is nothing to control the general language of a grant running to and bounding on a highway, a similar principle applies to that which is well settled in relation to boundaries upon rivers not navigable, and the grant extends centre of the way" Id. at 384. The Court applied this well established rule of boundary law even though the perambulation went to the side of the road.

In Boscawen v. Canterbury the Court confirmed the rule for a town line location calling for a river. "It is understood that it was held, in that case, [Petition of Green, Grafton County, ( 1843)] that the line between the towns was the centre of the river, measuring from bank to bank, and not a line dividing the water running in the stream into equal quantities. And we are not aware that there was anything in the facts of that case, that could change the principle as applicable to this." Boscawen v. Canterbury, 23 N.H. 188, 193 (1851). See also State v. Gilmanton 14 N.H. 467.

The correct term would be the "thread of the river," defined as "a middle line; a line running through the middle of a stream or road." Black's Law Dictionary 1171 (1<sup>st</sup> ed., 1891).

It is interesting that the above quote implies that one of the parties argued a novel approach to the location of a river boundary as the line dividing the quantity (volume) of water and neither the thread or the channel (deepest part of the river).

An exception to this rule is the location of the municipal (and State) boundaries along the Connecticut River. The boundary was disputed until 1764 when the King in Council ordered the boundary fixed as the westerly banks of the Connecticut River. See 7 State Papers 62 and Water Resources Board v. Lebanon Sand & Gravel, 108 N.H. 254 (1967). The legislature codified the location of the town lines in relation to the State line in NHRSA 51:1:

The northerly and southerly lines of towns adjoining Connecticut river are continued and extended across the river to the westerly

line of the state, and the west line of the state is the western boundary of such towns. NHRSA 51:1.

Rule: A municipal boundary moves with accretion and erosion but not with avulsion.

McQuillian discusses this rule:

The impact of a change in a stream's course on boundaries depends on whether the change was the result of accretion or avulsion. If the change ... was the result of natural and gradual processes known as erosion and accretion, the boundary follows the varying course of the stream. However, if the stream from any cause, natural or artificial, suddenly leaves its old bed and forms a new one, by the process known as avulsion, the resulting change of channel works no change of boundary ...McQuillin, Municipal Corporations § 7.07, at 47 (3d ed. Supp. 1995);

Rule: The municipal boundary abutting tidal water extends to the high water mark

McQuillian states this rule, “[a]lthough there is authority apparently to the contrary [citing limits of San Francisco over the bay and New York City to the low water mark] , it has been held that where the sea, a bay, or the ocean is named as a boundary, the boundary line ordinarily intended is the line of highwater mark ....” McQuillin, Municipal Corporations § 7.06, at 378 (3d ed., 1988 rev.).

According to McQuillian, “if an individual has a right to extend his land by filling in and making improvements into the water and does so, the boundary of the municipality is extended in the same way and the same extent.” Id. at 377.

Interestingly, the New Hampshire Supreme Court found that a municipality, through the police power over public parks and commons granted by the legislature, could regulate surfing in the ocean from the beaches within the town. See State v. Zetterberg, 109 N.H. 126 (1968).

Rule: Language in a deed clearly expressing the intent of the parties controls over an ambiguous description.

Rule: The actions of the parties can be used to determine the intent of the parties only if the intent expressed in the deed is ambiguous.

Another interesting case involving interpretation of the language in the act creating a town line is Bailey v. Rolfe, 16 N.H. 247 (1844). In 1778, land was annexed



to Nottingham West (now Hudson) from Londonderry. The legislative act stated that the annexation was to include the houses and lands of certain named individuals and exclude others. It also gave a metes and bounds description that, when laid out on the ground, separated the private lands into both towns. The selectmen over the years perambulated the metes and bounds description line but the assessors treated the whole of the private lands as in one town or the other. The Court stated that:

The question here is not, where the line is which the selectmen intended to perambulate, but whether the line which they intended to perambulate was the one indicated by the act. ...The official acts, and indeed the private acts of persons having occasion to put a construction upon ancient statutes, may be judicially noticed as evidence of a contemporaneous construction, and of the intent of such statutes. But it is only where the words of the statute are doubtful, that usage may be called in to explain them, and not when the act can not admit of different interpretation. ...  
Id. at 252.

The Court found that the language in the act that stated certain houses and lands were to be included and certain excluded was clear and unambiguous as to the intent of the legislature and that the metes and bounds description was erroneous.

Rule: When a line is described by two termini, the line is presumed to be straight, unless there is evidence to show otherwise.

The Court stated this rule quite succinctly in Henniker v. Hopkinton, 18 N.H. 98 (1846) but qualified it by stating “[t]his presumption must prevail, if the selectmen cannot be shown to have established a line deflecting from such a course.” Id. See also Whitehouse v. Bickford, 29 N.H. 471 (1854)(Tuftonboro and Ossipee town line dispute).

The underlying issue at hand is whether the selectmen, when originally laying out the line, deviated from the straight line. If they did, the Court recognizes that the monuments as set in the field control over the written description.

## **RESOLVING DISCREPANCIES BETWEEN THE ORIGINAL CHARTER DESCRIPTION AND THE ACTUAL LOCATION ON THE GROUND**

What happens when the line on the ground, located and agreed upon by the selectmen, is not the line described in the original charter? What happens when a monument along the line is not called for in the original charter and is not on the line between the corner monuments, but is called for in prior perambulations and treated as a monument by the towns?

These issues were addressed in Bath v. Haverhill 76 N.H. 511. Reading between the lines leads the reader of this case to determine that the underlying dispute focused on which town was responsible for the maintenance of the bridge over the Ammonoosuc River. In 1822, the Town of Haverhill laid out a highway to the “Sack Rock,” which was located in the middle of the river. Between 1822 and 1829, Bath and Haverhill shared the cost of construction of the bridge. From 1829 until 1894, the towns shared the cost of maintenance (including the repair of the middle tier by Bath for which Haverhill paid half the costs). In 1894, Bath surveyed the town line and marked it upon the bridge seventy feet closer to the Bath side, effectively shifting the responsibility of maintenance to Haverhill.

Under the Public Statutes, Chapter 52, Section 5, a petition was filed with the County Commissioners to settle the dispute (The statute in effect at the time authorized an appeal of a disputed line to the county commissioners). The Commissioners found that the middle tier of the bridge was the boundary between the towns. Bath appealed the Commissioners’ decision to the Supreme Court.

After restating the role of the County Commissioners and Courts in the process of settling town line disputes, the Supreme found that the centerline pier that had been constructed on the Stack Rock was the town line monument. The Court based its decision on the legal doctrine of “acquiescence,” in essence finding that the actual location of a town line on the ground can be established over time by acquiescence by the towns. Acquiescence is defined as “a person’s tacit or passive acceptance; implied consent to an act. ... The result is that binding legal effect is given to silence and inaction.” Black's Law Dictionary 23 (7<sup>th</sup> ed., 1999). This doctrine has long been recognized in New Hampshire to settle disputes arising long after the parties have acted in accord but contrary to the written record.

The material question between the parties, however, is whether there was legal error in the conclusion of the commissioners that the boundary between the towns was at the center pier where they have marked the line. When a line has been located and established, and treated for more than fifty years as the correct line between the towns, such line must be regarded as the true jurisdictional line between them, although it may differ from the calls of the charter. Hanson v. Russel, 28 N.H. 111. "Its actual situs upon the ground might be determined by a practical location long established and acquiesced in,... even if such line were variant from that described in the act of incorporation." Heywood v. Lumber Co., 70 N.H. 24, 29. Whether there had been such practical location, long established and acquiesced in, at any point on the bridge, was a question of fact upon which there was evidence before the committee. From 1829 to 1894, the town of Bath maintained the bridge to the center of the middle pier. Bath paid one half of the expense of building the bridge, and, in 1887,

one half of the expense of repairing the pier; and in a perambulation made in 1875, the pier is mentioned as a monument through which the boundary line runs. It also appeared from a perambulation in 1840, that the recognized line on the ground was not a straight line, as called for by the charter. From this evidence it could be found that there was a practical location of the boundary line differing from the calls of the charter, long recognized and acquiesced in, and that the line adopted and recognized passed through the center pier at the point where the commissioners marked it. These facts are evidence from which the fact as to the true location of the line might be found as the committee have found it. It is immaterial that there was evidence tending to an opposite conclusion. There has been no suggestion that the report should be set aside as against the weight of the evidence. Drown v. Hamilton, 68 N.H. 23.  
Bath v. Haverhill, 73 N.H. 512, 514 (1906)(Citations in original).

Care should be taken in interpreting the Courts ruling to establish a definitive fifty year time period as necessary to establish a town line by acquiescence. The Court was simply stating that the facts of this case, being over fifty years of acquiescence, was enough to meet the elements required to establish the line. The facts of each case should be reviewed and analyzed and a determination made as to whether those facts meet the elements required. See the discussion of the facts in Heywood v. Lumber Co., 70 N.H. 24, 29 where the Court similarly applied the doctrine of acquiescence to establish the location of a town line.

Another interesting case addressing this issue is Wells v. Jackson Iron Company. This dispute was over the ownership of the peak of Mount Washington, the location of the original westerly town line between Jackson. The 1806 (Carrigain) map was introduced as evidence that the town line was laid out in the field in a location differing from the charter.

17. The ruling as to the west line of Jackson, that the charter would govern rather than the plan of 1806, unless the town was run out and located by marking the lines about it, about the time of the making of the plan, which lines varied from the charter. If there was in fact a practical location of the town under the charter, with lines marked and well defined but varying from the charter, such actual location might govern.

18. The ruling that the old plan of 1806 had no legal tendency to show that a line was run and marked on the ground by monuments in accordance therewith, was wrong. This plan of 1806 was prima facie evidence of the true lines between the towns and was competent to be submitted to a jury, as tending to show the lines between lands of individuals whose lots are bounded on the town

lines. Adams v. Stanyan, 24 N.H. 405. This map was probably made in pursuance of an act of the Legislature of December 30, 1803, making it the duty of the several towns in this State to cause "an accurate survey of the same to be made" and transmit a map thereof to the Secretary of State "containing the exact limits of said town by careful admeasurements," & c. This act was extended, and this map was made and filed, as may be properly assumed, under its provisions and requirements, by making an actual survey of the town and getting the exact limits of the town by careful admeasurement. We should usually understand by these expressions, that the survey and measurements were or would be according to some lines actually marked on the ground previously, or if not so marked before, that they would of course be so marked at the time. Their being designed as lines of the town would be a sufficient reason why they should be so marked if not so marked before. We think this map had some tendency, made under these circumstances, to show that a line corresponding with said plan was run and marked also upon the ground at that time if not before.

Wells v. Jackson Iron Company, 48 N.H. 491, 538 (1869)(Emphasis added).

Other cases of interest on this subject include Adams v. Stanyan, 24 N.H. 405 (1853), cited above and Hampton v. Seabrook, 98 N.H. 84 (1953).

This discussion raises the question as to the procedure the selectmen should follow in replacing town line monuments or placing additional monuments along the line. Towns are well advised to seek the assistance of a Licensed Land Surveyor when performing either procedure. Recall that the selectmen's charge is to renew the existing boundaries, not to alter them. It is critical to replace an original monument in the same location and provide documentation regarding the procedure.

Adding monuments along an existing line can be tricky. Because the selectmen cannot alter the existing line that runs from existing monument to existing monument, if a new monument is added that is not on the line, the question becomes whether the new monument marks the line or is simply a witness to the original line. Because the legislature holds the power to set and alter town lines, a solution to the problem of new monuments is for the town meeting to vote to request a ratification of the newly set monuments from the legislature see RSA 51:9. Also see Appendix 10 in this document which is from the Laws of N.H. 1983 Chapter 199, whereby the towns of Lee and Barrington legalized a new marker. Appendix 9 is an 1818 example of a legislative act to modify a town line.

## **SUGGESTED CHARACTERISTICS OF A NEW OR REPLACEMENT TOWN BOUNDARY**

A town bound monument should be at least 6 inches by 6 inches (larger is better) placed securely in the ground either deep enough (4'+) for stability or in concrete. The monument should stand 4 feet above the ground with the initial letters of the respective towns legibly cut in. For those locations where a 4 foot height is not appropriate a flush monument may be set. In all instances, but particularly in the latter case, it is important to place large iron bolts or rods in the ground around the monuments so that in the future they can be found using a ferrous metal detector.

## **WHAT IS THE RELATIONSHIP BETWEEN THE LOCATION OF TOWN LINES AND PRIVATE PROPERTY LINES?**

The New Hampshire Supreme Court addressed this issue in Heywood v. Wild River Lumber Co. 70 N.H. 24 (1899). The dispute is between two private property owners whose original grants called for the north town line of Jackson (originally Adams) as their common boundary. The New Hampshire Legislature incorporated Adams in 1800.

A discussion of the differences between a town line and private property title line is appropriate at this time. To understand the differences it is first important to understand the difference between a "Grant of Land" and a "Charter" of a town. A "Grant" is defined as "[t]he formal transfer of real property." Black's Law Dictionary 707 (7<sup>th</sup> ed., 1999). A "Charter" on the other hand is defined as "[a]n instrument by which a government entity (such as a city or state) grants rights, liberties, or powers to its citizens." Id. at 228. The New Hampshire Supreme Court recognized this difference in Heywood:

The charter of Adams in 1800 was not a grant of land. It appears to have been granted, as stated in the preamble, upon a petition "requesting that certain locations, with other lands situate in the county of Grafton, might for certain reasons therein stated be incorporated into a town." The charter enacts that "the inhabitants of said locations and state lands bounded as aforesaid are hereby erected into a body politic and corporate to have continuance and succession forever, and are invested with all the powers, privileges, rights, benefits, and immunities which any town in the state by law hold and enjoy." By virtue of this act no private title passed to the ancestors in title to the parties to this suit, or to any one. The state lands through which the northern jurisdictional line of the new town-ship passed remained ungranted as before. Heywood v. Wild River Lumber Co. 70 N.H. 24, 29 (1899). (Quotations in original).

During the 1700's and early 1800's in New Hampshire, there were many early grants of land to groups of individuals making up a "proprietorship." A discussion of the bifurcation of the "propriety" from the "town" can be found in Proprietors of Cornish v. Kenrick, 1 Smith 270, (1809). See also Stephan T. Nix, New Hampshire's Rangeways, 42 NHBJ 44 (2001). It should be noted that it is not lost on historians and legal scholars that the very early town grants combined the grant of lands with the chartered powers of a body politic. This combination was necessary given the need for some type of government in the new colonies:

In 1649, the General Court enlarged the governing bodies of the towns to permit the freemen, "with such others as are allowed," to have "the power to dispose of their own lands and woods, with all the privileges and appurtenances of the said towns, to grant lots, and also to choose their own particular officers...." Colonial Laws of Mass. 1660, Whitmore ed., 195. The General Court, in authorizing the establishment of towns, did not define their boundaries, which were often not set up for many years. The title to lands in towns or plantations, as they were sometimes called when first founded, was vested in the town as a legal entity. Proprietors of Cornish v. Kenrick, Smith 270, 274; Cobleigh v. Young, 15 N.H. 493, 502; Commonwealth v. City of Roxbury, 9 Gray 451 (75 Mass. 451, 486). Hampton v. Palmer, 102 N.H. 153 (1959). (Citations in original).

It is interesting that the boundaries of the early grants were undefined for many years as cited above.

In Cornish, Chief Justice Smith goes on to make the point that as settlement in the New England progressed into the 1700's there was a division between the grant of lands and the body politic as he comments:

In process of time, when lands were granted on speculation, and not merely for settlement, the propriety and town began to be viewed as distinct bodies. All inhabiting within the limits of the territory granted were constituted a corporation, endowed with the franchises and privileges of towns. The powers of government were vested in this body. This body comprehended some, but not all of the proprietors of the soil; and many who owned no lands were members of the town corporation. The proprietors of the soil ceased to possess any powers of government, but they still retained as many of their cooperate powers as were necessary or useful, - such as the corporate power of managing, improving, dividing and disposing of the soil. Proprietors of Cornish v. Kenrick, 1 Smith 270, 272 (1809).

In the early case of Lawrence v. Haynes, 5 N.H. 33, 37 (1829), the Court addressed the interrelationship between the town line and the private property line. In that case parties stipulated that the original location of the town line between Gilmanton and Northfield was the division line between the private properties. The question at hand was how to determine where that line was located on the ground.

Interestingly, there was a prior dispute between the municipalities regarding the same line. The Court in Lawrence rejected the proceedings of the municipal case as evidence in the private case under the rule that “no record of adjudication can be used as evidence of the facts upon which it is founded, in a suit between persons who are strangers to the adjudication.” Id. at 34. In other words, because Lawrence and Haynes were not parties to the municipal case, the outcome of that case cannot be used as evidence in their case. The questionable result of this rule was addressed by the legislature in 1842 when the legislature amended the statute to making the decision of the Court of Common Pleas “final, and binding upon all the world.” Pitman v. Albany, 34 N.H. 577 (1857)(See Statutory History Discussion above).

The Court, however, allowed the perambulations themselves as evidence by stating “these perambulations when legally and amicably made must be evidence of the lines between towns. Indeed, when any particular line has been long thus perambulated, the perambulations afford very strong evidence that it is the true line.” Id. at 36.

In review, a town line is a government jurisdictional line where as a private property line is the division between the ownership of real property and perambulations can be used as evidence of the location of the line in private boundary disputes. As discussed below, they may or may not be located on the ground in the same location.

### **A CALL FOR A TOWN LINE IS A CALL FOR A MONUMENT IN A DEED.**

The Supreme Court clearly stated this rule by stating "A town line, such as the boundary between Strafford and Farmington, is considered a monument, Land Company v. Saunders, 103 U.S. 316, 321-22 (1880), ..." Chao v. The Richey Co., 122 N.H. 1115 (1982) (Citation in original).

The facts in Chao were interesting. Chao was deeded a 30 acre parcel of land making reference to a plan. One line was described as the town line in the deed. The plan depicted the line as "approximate town line." The Richey Company obtained title to the remainder of the original farm on both sides of the town line. It was later determined that the actual town line was 600 feet and parallel to the plan line. Chao made claim to the land between the erroneous plan line and the actual town line, adding some 22.4 additional acres. It should be noted that this is a slightly different concept than in Lawrence, above, where the parties to the litigation stipulated that the town line was the dividing line between private properties. In Lawrence, the issue was where the town line was, not if the town line controlled as the monument.

The Court found in favor of Richey and did not place the private property line at the actual town line:

The record shows that the description in the Chao deed designates the property's northeasterly boundary as the town line, as well as setting forth the course and distance description for that boundary. However, the record in this case also indicates that Dr. Chao's intent at the time of purchase was to acquire '[t]hirty some acres and that the Colmans' intent was to convey a parcel of this size.' ... The rule of construction of deeds that monuments prevail over courses and distances is an aid used to determine the intent of the grantor; it is not mandatory in the face of convincing proof of contrary intent.  
Id. at 1118.

### **DOES THE PRIVATE PROPERTY LINE MOVE WHEN A TOWN LINE MOVES?**

The simple answer is "no." Private property lines are generally established at the time of the grant. Unless there is an unwritten transfer under one of the doctrines of adverse possession, acquiesce, latches or estoppel, the private property line remains fixed.

This was the case in Haywood. When the Town of Adams (Jackson) was chartered in 1800, the north line was described as running from the undisputed northeast (monumented) corner of the Wentworth & Rogers grant, easterly to the northwesterly corner of Chatham. In 1800 the line was not run and there was no monument locating the northwest corner of Chatham. In 1804, in compliance with the act of 1803 requiring towns to make surveys for the Carrigain map, Chatham ran its north line and established the northwest corner at the "old spruce corner." This corner was recognized by both Jackson and Chatham as the common corner from 1804 until 1847 when a new survey established a new corner about 60 rods away. "From 1804 to 1847, the 'old spruce corner' was recognized as the northwest corner of Chatham and understood to be the corner of Jackson; and since that time the "commissioners' corner" has been recognized as the corner of Chatham and Jackson." Haywood at 30. Adding to this factual maze, and precipitating the litigation, it was later determined that running the Jackson north line according to the metes and bounds in the Charter, would put the corner some 24 rods northerly of the "old spruce Corner."

The Wild River parcel was originally granted by the State to Bean in 1832 and the Haywood parcel, in Jackson, was originally granted by the State to Pinkham in 1835. The Court pointed out that neither party had a claim based on actual possession. In its opinion, the Court avoided deciding which line was the correct town line and focused on what the parties to the private grants thought the line was at the time of the grants.



At the date of the Adams charter, the north line, according to either claim as to its exact location, passed through ungranted state lands of which no grants adjoining this line appear to have been made except those under which the parties claim. Their rights are therefore determined by the answer to the question: what was meant or understood by the north line of Jackson at the date of their respective grants?  
Haywood at 296.

The Court then went on to find that:

When the state bounded its grant to Bean, in 1832, upon the south by the north line of Jackson, the parties meant the only line that was known at that time,--a line running to the northwest corner of Chatham at the point where the corner had been located for thirty years. They did not mean a line to a corner which never existed, or which had been abandoned,--a mere tentative location,--but an actual, bona fide, corner bound. Such the "old spruce corner" is found to have been.  
Id. at 297.

The Court also clearly defined that a later change in a town line does not change the private property line:

The [town] line was subject to legislative change. A change after private titles had attached would not affect the lines of private lands; they would be bounded as before by the old line. The only point material in this case is that, at the date of the deeds from the state, the north line of Jackson was a line running to the corner bound of Chatham. If, after the partition of the territory, the legislature had defined the north line of Jackson as running to a point two hundred rods north of the "old spruce corner," that would not have affected these titles, because the line intended by them was the line running to the "old spruce corner." There is no evidence that any other line was then known or imagined. The state, Bean, or Pinkham could not have meant to bound or be bounded by a line unknown and unimagined.  
Id. at 298. (Emphasis added).

## **V. SOME POSSIBLE SOURCES OF ASSISTANCE IN THE PERAMBULATION PROCESS**

### **TOWN VOLUNTEERS**

In some towns the officials may find that members of the Conservation Commission, the Historical Society, Planning Board, or other organizations have an interest in performing the research and reconnaissance work under the selectmen.

An ad-hoc group or committee of volunteers (some from the above, existing boards) formed to accomplish only the task of preparing for and assisting in the perambulation. A call for interested volunteers in the town newsletter would give an indication of any interest.

### **N.H. LICENSED LAND SURVEYORS**

A N.H. licensed land surveyor may “adopt” a town or towns (as a volunteer) and donate assistance in the perambulation effort. Some advantage to the surveyor would be positive publicity, improving the image of profession, and possibly gaining knowledge for future use.

**REGIONAL PLANNING COMMISSIONS** may want to have a role in assisting towns in this task.

**UN.H. COOPERATIVE EXTENSION SERVICE** has GPS units for loan to individuals (for non-profit projects) who have completed their GPS training workshop. (862-1029)

**N.H. DOT** may be willing to GPS the town bounds near their projects now and in future at the request of towns.

**HIRE A LICENSED LAND SURVEYOR** to perform the work for one or both towns:

Possible scope of Proposal:

Estimated cost to:

Research

Recon

Perambulation

Report

(New Hampshire Land Surveyors Association can provide names of local Licensed Land Surveyors, 1-800-698-5447.)

## VI. CONCLUSION

The importance of political (community) boundaries and the marking and maintaining of such has a long and colorful history dating to the first human settlements. As land development continues, and as land values increase, the importance of clear and well documented municipal jurisdiction lines becomes more and more important.

The existence of a perambulation statute affords every municipality an opportunity to continue a long and honored tradition - one that helps citizens stay connected to the history and the geography of their community. The requirement should be seen as a positive one which allows interested members of neighboring towns to re-connect with the land, and the occupants of the past, in maintaining and renewing their political boundaries.

A short list of some of the positive aspects of the perambulation might include:

- An opportunity to research and investigate the history of your town
- The challenge of searching for lost or obliterated monuments
- The satisfaction, after a difficult search, of finding a monument
- The opportunity to range far and wide across the “length and breadth” of your town
- Just being in the woods
- A sense of pride in knowing where your land is
- Knowing your community a little better
- A connection with the history of the place
- A sense of belonging to something larger than yourself
- Giving back something to your community
- Selectmen and citizens come and go but the municipality endures
- Compliance with the statute
- Performing and documenting the perambulation in the thorough way presented here will make it easier for future generations.

In a recent opinion piece, Ted Kirkpatrick, the Interim Associate Dean of Liberal Arts at UNH, discussed the importance of students learning the boundaries between acceptable and unacceptable behavior. His statement that “**boundary maintenance is the mark of a civilized society**” seems particularly applicable to the focus of this publication. As members of society we all have a duty and responsibility to establish, maintain, and perpetuate our political boundaries. It is hoped that this document facilitates this obligation.

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