

Minutes of the 16th Thromde Tshogde Meeting

Venue : DYT Hall, Thimphu Dzongkhag

Time : 2:30 P.M. to 6:30 P.M.

Date : 30th August, 2013

Members Present:

1.	Kinlay Dorjee	Thrompon	Chairperson
2.	Namgay Tshering	Babesa	Deputy Chairperson
3.	Ugyen Penjor	Jungshina - Kawajangsa	Member
4.	Kinley	Changbangdu - Olakha	Member
5.	Kuenga Yonten	Norzin	Member
6.	Ugyen	Taba - Dechencholing	Member
7.	Rinzin Dorji	Changangkha	Member
8.	Dorji Dema	Motithang	Member
9.	Minjur Dorji	Executive Secretary	Member Secretary

Guest Participants:

- Honorable Member of Parliament, Yeshey Zimba
- Honorable Member of Parliament, Kinga Tshering

Opening Remarks:

The Chairperson welcomed the Honorable Members of Parliament Yeshey Zimba and Kinga Tshering, the Tshogde members and the participants to the meeting. The meeting, he explained was scheduled on 27th September, 2013. However, the meeting had to be re-scheduled because of two pressing issues:

- **Dechenchoeling Satellite Town:** Plot allotments in Dechencholing Satellite Town was a major challenge for Thimphu Thromde, given the limited number of plots. The categories for allotment and a way ahead would be discussed in the Tshogde. 28 plots in total were confirmed allotted but decision was yet to be made for 15 people and another group of 12 people.
- **Olakha Workshop:** When the workshop was established in 2006, the land pooling contribution was 56%. The pooling percentage has now been brought down to 35% similar to adjacent new workshop area. The issue of large difference in land pooling between old and new workshops was raised by the old workshop owners. A meeting was held with the affected landowners where the land pooling was decided at 35%.

Review and Endorsement:

Because the minutes of the 15th Thromde Tshogde meeting was not finalized, its review and endorsement was postponed to be discussed in the 17th Thromde Tshogde meeting.

Agenda 1: Relocation of Dechenchoeling Satellite Town

Kuenga Om, Land Record Officer, made a presentation on the Dechenchoeling Satellite Town which had 10 sets of criteria for plot relocation set by the Dzongkhag Committee which included 45 people.

Category	Type	List of People	Remarks
1	Kasho Holders.	<ul style="list-style-type: none"> • Dasho Nima Tshering • Nakphel • Sharop Phuntsho • Sonam Zangmo • Chewang • Rinzin Wangdi 	
2	Shopkeepers running shops in their own buildings and with valid trade licenses in their own names.	<ul style="list-style-type: none"> • Norbu • Dorji • Gang Dolma • Tshogyel • Tashila • Tshering Dema • Rekey • Sonam Wezer • Pema Samba • Tshewang Zangmo 	
3	Shopkeepers running shops with trade license in their own names but in rented houses.	<ul style="list-style-type: none"> • Gembo • Sangay Dhendup 	
4	Shopkeepers running shops in his or her own building with hired trade license (at present has own valid trade license).	<ul style="list-style-type: none"> • Chhimi 	
5	Trade license holders owning the building since 1985.	<ul style="list-style-type: none"> • Sonam Dorji • Ugyen Zam • Karma Deki • Payki • Nidup Lham • Choni Dorji • Pema Choden • Kuenzang Choden 	
6	Persons owning building only since 1987	<ul style="list-style-type: none"> • Gyeltshen • Tshechu 	
7	Trade license holder only in Dechenchoeling.	<ul style="list-style-type: none"> • Jangchu Dema • Choten Wangmo • Lotey Wangmo 	No plots available besides they have received Kidu land

		<ul style="list-style-type: none"> • Passang 	under resettlement program.
8	Shopkeepers running shops with hired trade licenses in rented buildings.	<ul style="list-style-type: none"> • Thinley • Paykis • Chhim Dorji • Sonam Chhuki • Ugyen Driver • Ugyen Zam • Daba 	This is a direct fronting case.
9	Government servants running shops with valid trade licenses directly or indirectly.	<ul style="list-style-type: none"> • Chekey • Pem Dorji • Dorji • Sonam Zangmo 	This is against the Royal Civil Service Rules.
10	Shopkeepers running shops with valid trade license in his or her own names in rented or own buildings without citizenship.	<ul style="list-style-type: none"> • Samten Tshering 	Law of land does not permit allotment.

Remarks of the Tshogde:

To category No. 9, Honorable MP Yeshey Zimba commented that it was not against RCSC rules for the spouse of a Civil Servant to run a business. He said there were many examples of a spouse of a Civil Servant doing businesses.

Taba-Dechenchoeling Thueme informed that Dechenchoeling Satellite Town was shifted in 2006 and 2007, a total of **28** plots (6 Kasho holders & 22 people falling between categories 2 to 6) were allotted, following which 22 shopkeepers were established in the area. He added that there were 43 plots available in the new location for satellite town. In 2008, a group of 12 people approached the then DPT Government with their grievances for not getting plot in the area:

1. Leki Dorji
2. Choki
3. Peldon
4. Sonam Choki
5. Samten Dema
6. Chorten Zangmo
7. Pelden
8. Tenzin Zangmo
9. Ugyen Wangmo
10. Sonam Yuden
11. Kezang
12. Pema Choden

After 2011, they approached the Thueme with a copy of their application to DPT. He advised them to approach the Thrompon who later advised the Thueme to collect necessary documents from these people.

The Thueme explained that a thorough investigation could not be carried out yet for this group of people and requested the Tshogde for a concrete decision. He also recommended cross checking their business licenses.

He submitted that a separate category could be made for these 12 people and a thorough investigation carried out for eligibility of plot allotment. He also informed that Mr. Samten Tshering falling under category 10, who was denied plot during initial allotment due to lack of citizenship had obtained his citizenship and that the category could be amended henceforth.

The Thueme added that there was yet another group consisting of 13 people who were shopkeepers in the old town, but disqualified for plot allotment by the Dzongkhag Committee. They were included in the Dzongkhag list. The Thueme has no idea about this group since they never approached him.

Respecting the decision of the Dzongkhag Committee, Member Secretary suggested that those falling between categories 1 & 6 should remain as it is. He said category 9 and category 10 could be looked into and given consideration. He felt that the group of 12 applicants was not eligible for allotment since they have neither featured in the initial Dzongkhag list nor in the subsequent list compiled by the MoWHS. The question was whether to include them in the list as well.

Chairperson added that it was a challenge to decide on those 12 people instantly. He informed that His Majesty the King has specifically commanded that Dechenchoeling Satellite Town should not end up like another Bajo Town. Honorable MP Yeshey Zimba cited examples of Bajo Town and Gedu Town where new people were allotted plots when those who actually deserved were not.

Decision: It was decided that a meeting shall be held to discuss and investigate the rest of the categories (7 to 10) and the other group consisting of 12 people.

Action: Land Records.

Agenda 2: Endorsement of 50% payment from penalty collected by Inspectors

Head, Inspection & Monitoring Section submitted to the Tshogde for endorsement of 50% payment from penalty collected by Sanitary Inspectors.

Sl.No.	Name of Inspector	Total Fine (Nu.)	Deposited Amount (Nu.)	50% Amount (Nu.)	Due Amount (Nu.)
1	Tashi Tshering	149,250.00	100,250.00	50,125.00	49,000.00
2	Pema Dorji	22,200.00	20,000.00	10,000.00	2,200.00
3	Dorji Wangchuk & Tsheten Wangchuk	5,300.00			5,300.00
4	Sonam Tshewang	49,000.00	20,000.00	10,000.00	29,000.00
5	Shishir Sangpang	1,000.00	900.00	450.00	100.00
	Total	226,750.00	141,150.00	70,575.00	85,600.00

Given the challenges involved in imposing and collecting penalties from defaulters, Chairperson appreciated the hard work and dedication put in by Sanitary Inspectors.

Decision: The Tshogde endorsed the submission. The Chairperson reminded the Head of Inspection and Monitoring Section to ensure that the concerned Inspector received the 50% amount from the penalty that he or she collected.

Action: Inspection & Monitoring Section, AFD.

Agenda 3: Olakha Workshop

Urban Planner, Simtokha LAP, informed the Tshogde that consultation meetings were held with affected land owners of Olakha Workshop Area and would like to present a second option for the proposal wherein the existing road would have to be shifted along the stream side and the existing fencing. The Workshops were shifted to the present location from Changzamto in 2008. The Chairperson said the agenda was even discussed in the 15th Thromde Tshogde because land pooling was relatively high (56.58%) and more importantly, the present ground occupation varies ranging from no pooling in some plots to 59% in some. Therefore, in order to bring the pooling percentage to a common figure, the land pooling had to be amended down to 35% from 56.58%. He informed that a meeting held with affected land owners was fruitful. They thanked the Thromde for bringing down the pooling percentage. It was decided that 50% was to be compensated in cash and the balance 50% in terms of land only depending on the availability of adjacent land. Some land owners proposed that if Government land was available adjacent to their plots, land compensation be made instead of cash compensation. The way ahead was to submit the list to National Land Commission for making changes in the Thram. Cash compensation list shall be submitted to the Ministry of Finance for compensation payment to the affected land owners.

Urban Planner informed that a new road will be constructed in the Workshop area if option II is accepted. However, the Committee decided to go by option I that was already discussed and agreed with the stakeholders.

Decision: The Tshogde decided on option 1 that was discussed and agreed upon during the 15th Thromde Tshogde Meeting.

Action: Urban Planning Division.

Agenda 4: Lease Rate Proposal

The Workshop on State Land Leasing Rules and Activities for Thromde held on 25th July, 2013 in NLCS decided that: "For any land on lease, the rates fixed by NLC which came into effect from 1st January 2009, must be applied. In addition, any previous lease rate fixed through lease agreement or directed by any relevant Government agency or Committee will also be superseded with effect from 1st January, 2009. Prior to 1st January 2009, the rate in the lease agreement or the rate fixed by the Government agency may be applied".

Sl.	Name	Type of Plot	Location	Area (Sq.Ft)	Rate per sq. ft.	Date of Agreement	Expiry Date	Remarks (Development Status)
1	Tarayana Foundation	Recreational Precinct & River front Development area	Lower Chubachu	32150	Nu. 1/-	1/1/04	1/1/54	Developed,
2	RENEW	Institutional Precinct	next to MoLHR	15,000	Nu. 1/-	28/1/05	28/10/35	Developed,
3	RSPN	Residential	North of RAA	17,000	Nu. 2/-	1/6/05	1/6/235	Developed,

4	Youth Development fund	Residential	Above Swimming Pool complex	174240	Nu. 1/-	8/8/05	8/8/35	Developed,
5	WWF	Institutional Precinct	Kawangjanga	17,000	Nu. 1/-	1/1/05	1/10/35	Developed,
6	Bhutan Olympic Committee	Sports Facilities	Below Jamyang Resort	109771.2	Nu. 0.10/-	13/4/06	13/04/36	Archery Range
7		Sports Facilities	Mothithang(HTMTI)	219978		4/14/06		Surrendered(BO C/Estate/(2)193 dated 23/4/2012
8	Aum Pem Tandis, Sunshine School	Government Plot	Motithang	9495	Nu. 2/-	25/4/06	25/04/16	School fully functional
9	Royal Thimphu Golf Club	National Open Green space	Dzong Precinct	19873.81	lum sum Nu. 50,000/annuam	10/1/06	10/1/36	Open space
10	Royal Textile Academy	Institutional Precinct	Chubachu	206910	Nu. 1/-	15/6/07	15/06/37	Developed, 19/10/2009

Dorji Phurba, Land Record Officer submitted that before 1st January 2009, there were no concrete lease rates when lease agreements were drawn because of which the Royal Audit Authority discovered discrepancies. He informed that lease rates are supposed to be reviewed every 3 years as per the Land Lease Rules & Regulations 2009. However, it was never re-viewed even after 4 years.

The Tshogde decided that the maximum lease term shall be 30 years instead of 50 years. The House also decided to discuss on the issue of whether to increase the lease rate or not. The Thromde to sustain itself has to be financially independent. Some members were also of the opinion that the Land Committee should look into the lease term.

Chief Environment Officer commented that given the vast size of the Royal Thimphu Golf Club, Nu. 50,000.00 seemed to be a very meager amount. He speculated Audit objections since the RAA considers the Golf Course as a Commercial Area. But the question was whether the Thromde has the authority to amend land lease rates. However, the Thromde could propose for revision to NLCS because Section 315 of the Land Act 2007 states:

"Where relevant, service fees and fines shall be levied by implementing agencies for administering the provisions of this Act. The Commission Secretariat shall periodically revise and publish the service fee."

Decision: It was decided that those Institutions paying Nu. 1 per sq. ft. shall be increased to Nu. 2 per sq. ft. and the other lease rates shall remain as it is. The lease rate of the Golf Course shall be revisited after finding out the exact acreage.

Action: Land Records & UPD.



Agenda 5: 5% Property Ownership Transfer Tax of Ap Thukten**Case history:**

Plot No. H-8B measuring 2,878 sq. ft. located in the Sunday Market was transferred from Late Karsang, Late Damdi, & Late Tenzin Jamtsho to Ap Thukten, Mr. Jabla, Mrs. Pema Khandu, & Mr. Passang. New Thram No. TT-972 was issued on 2/08/2011 under the joint ownership of the 4 transferees.

Initially, late Damdi's share of the property was to be transferred to Mrs. Pema Deki. However, it was later decided that late Damdi's name shall be replaced by Mr. Passang (late Damdi's son). The 5% property ownership transfer tax was NOT applicable to Mr. Jabla & Mrs. Pema Khandu since they were inheriting their late father's (Late Tenzin Jamtsho) share of the property.

Similarly, the 5% property ownership transfer tax was NOT applicable to Mr. Passang because he was inheriting his late father's (Late Damdi) share of the property. However, Ap Thukten paid a sum of **Nu.71,029.00** (Seventy one thousand and twenty nine) vide receipt No. 24530 dated 9/08/2011 as 5% property ownership transfer tax. The tax was worked out based on the current PAVA rate for plots falling under the Urban Core Plan (sub-precinct 2A), that is, **Nu.1,233.89** per sq.ft.

Ap Thukten now states that the plot adjacent to his plot was transferred from Aum Yangchen to Dasho Nima Wangdi and Mr. Kuenga Phuntsho in 2006. Back then, Dasho Nima Wangdi paid **Nu.20,715.00** only as 5% ownership transfer tax.

The 5% property ownership transfer tax (**Nu.20,715.00**) was worked out based on **Nu.150.00** per sq.ft. for 2,762 sq.ft. amounting to Nu. 414,300.00. Nu. 150.00 per sq.ft. was in force when the transaction took place in 2006.

Ap Thukten says that his application was registered with the City Corporation since 1995 and that his work was kept pending without any valid reasons. He asserts that it was unfair for him having paid **Nu. 71,029.00** when he could have paid a far less amount had his work been done on time. He now requests the Thromde that his tax be worked out at par with Dasho Nima Wangdi, given the same location and the balance amount be re-imbursed to him.

Remarks of the Tshogde:

Taba - Dechenchoeling Thueme expressed that however clear the taxation policy was, some cases were very genuine. For example, tax imposition on transfer of property ownership from a grandmother to her granddaughter in the absence of an immediate heir did not make sense. As such, the taxation policy should also look into the authenticity of such cases. Coming to the case in question, he suggested that a thorough investigation could be carried out and the officials concerned could be questioned why two applications submitted on the same day were approved at two different points of time.

Chairperson said that he had been approached frequently with similar grievances. According to him, Ap Thukten's request seemed sincere and that the dealing officials were to blame for delaying his work which resulted in paying a huge sum to the Thromde. He informed that the Department of Revenue & Customs recently gave the Thromde the authority to decide on the 5% property ownership transfer tax.

Member Secretary informed that Ap Thukten accused the Thromde officials for delaying his work. Since Ap Thukten has already paid, his request to re-imburse the money did not make any sense.

Chang Bangdu - Olakha Thueme suggested if Ap Thukten could be reimbursed 50% of what he paid.



Kawang Thueme feared that a precedence might be set if Ap Thukten's request was considered which will create room to criticism thereafter.

Decision: It was decided that a detailed investigation on why Ap Thukten's application was delayed should be made and presented in the 17th Thromde Tshogde Meeting.

Action: Land Section.

Agenda 6: Request for Government land on lease for establishing Cable Car Service

Chairperson informed that the Thromde received a proposal to establish a cable car service stretching from Kuenselphodrang to the opposite ridge. Although the proposal sounded practical, the Thromde should first study the advantages & disadvantages of the business establishment before clearance is given. Important aspects like noise pollution, fume emission, other environmental impacts, etc. should never be compromised. Chairperson also supported the proposal because the business would generate employment for the unemployed youth. The applicant expresses that his business, if approved, could be a tourist attraction and could also reduce air pollution from vehicles.

Decision: The Thuemes and the participants supported and approved the proposal which will later be put to the Cabinet.

Action: DCD.

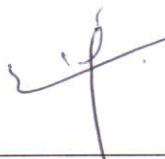
Agenda 7: Taxi Parking Case with Tashi Commercial Corporation

Adm. Assistant, Khandu, submitted that the longstanding case between the Thromde and Tashi Commercial Corporation (TCC) has come to a close. Supreme Court on 22/08/2013 ruled that TCC owned the taxi parking area, adjacent to the fuel station at Lungtenzampa. The Court dismissed the appeal petition filed by the Thromde, which had challenged the High Court's split decision, and requested the highest appellate court to review its verdict that TCC had no legal basis to make an issue. Upholding the lower Court's subsequent verdict, the Supreme Court stated that plot No. L-1 and I-22 measuring 38,550 sq. ft. were registered in the name of TCC since 1973, and were regularized in 1984 and Ownership Certificate issued. Accordingly, TCC had paid land taxes for several years. The Supreme Court verdict also states that, if required, the Government could acquire the taxi parking area, in accordance to the Land Act 2007. That means Government can acquire the plot as per Government rate.

The Tshogde agreed that the current location of the taxi parking was very convenient for the public at large. The Thromde cannot just surrender the taxi parking land to TCC unless a substitute is identified either in Thimphu or Phuentsholing.

Decision: It was decided that Land Section & UPD will investigate if TCC has excess land elsewhere in Thim Throm to have land in exchange of taxi parking land and report to the next Tshogde for further directives.

Action: Land Records & UPD.



Agenda 8: Betterment Charges

Ms. Lekey Wangmo, Sociologist, informed the Tshogde that the World Bank Project was in the process of paying compensation for affected landowners of Langjophakha LAP. Only when 100% compensation was made, the World Bank will issue clearance to tender out the Project. Aum Chimi Dema owns a registered area of 12 decimals (plot No. 42/B under Thram No. 12/D) out of which 3 decimals shall be pooled for infrastructural development. She is entitled for compensation for her boundary wall, a semi-permanent structure and PCC post for water tank. Aum Chimi however refused to collect the compensation payment since she is in disagreement with the dismantling of the semi-permanent structure and water tank which falls on the proposed parking. Therefore, it is proposed that Aum Chimi pay betterment charges for the affected semi-permanent structure and water tank post. She however, agreed to be compensated for the boundary wall.

Sociologist added that as per directives from the Chairperson, the 3 decimal is to be included in betterment charges. Due to reconfiguration of the plot, her boundary wall is affected anyhow for which compensation has to be paid. Further, as the data has been submitted to National Land Commission and National Cadastral Re-survey Program was complete, the betterment charges as proposed has to be routed through NLC.

The Chairperson informed that betterment charges have been a problem all over and not only in Langjophakha LAP. In this case, the parking would benefit Aum Chimi only which makes sense in considering her semi-permanent structure and the water tank provided she dismantles the wall and pays betterment charges.

Decision: The Tshogde approved the proposal.

Action: BUDP - II (World Bank).

Agenda 9: Centenary Farmer's Market

The 13th Thromde Tshogde Meeting decided that because of the revenue that would be generated, Thimphu Thromde would take over the over-all management and parking of the Centenary Farmers Market (CFM) from BAFRA. Chief Environment Officer presented that the CFM was managed by the then Thimphu City Corporation till 2008. It was handed over to BAFRA, MoA, in October 2009. Currently, BAFRA has 29 staff managing the Market. The question was whether the Thromde should take back the management of the Market or charge lease rents and property taxes. For core area, the lease rate is Nu. 20/- per sq. ft.

Chairperson commented that waste management at the CFM was a challenge in itself. Member Secretary suggested that the Thromde could collect lease rents and taxes and leave the management of the Market to BAFRA.

Decision: The Tshogde decided that the management of the Centenary Farmers Market will remain with BAFRA as it is while the Thromde shall be responsible for waste management and water services. The land should be leased out either in the name of MoAF or BAFRA.

Action: Environment Division & Water Supply Section.



Honorable MP Yeshey Zimba expressed gratitude for the invitation to attend the Tshogde meeting. The meeting he said, could not have been more timely when the 11th five year plan was to be discussed in the National Assembly. He pledged he will support the concerns of the Local Government elects and decisions made by them would be respected. Likewise, Honorable MP Kinga Tshering thanked the Tshogde for the opportunity at this very important juncture when the 11th five year plan was just around the corner. He appreciated Thimphu Thromde for the hard work and dedication it is putting in.

Honorable MP's were positive that Thimphu Thromde would facilitate them in realizing their manifestos since the Thromde's visions were similar to their visions. For South Thimphu, the focuses were on:

- Improvement of roads/black topping
- Water Supply
- Sewerage treatment plant
- Debsi - Zamto Lam
- Multi-storied parking lot
- Footpaths for recreational activities
- Upgrading Library
- Communication strategies/COMMUNITY HALLS,
- E-4 Precinct ISSUE,
- City Address System
- Changangkha Lhakhang renovation
- Environment Management
- Health & hygiene
- City beautification
- Resolving land issues
- Land Act, Election Act, Tenancy Act, Local Government Act

For North Thimphu, following were the focus areas:

- Education, Youth and Unemployment
- Business & Economy
- Sports & Recreation
- Culture & Tourism
- Transportation & Traffic Issues
- G2C Services
- Affordable Housing Projects in Thimphu
- Rural & Highland Prosperity
- Local Plans (Core Town Area- Norzin Lam, Vegetable Market, Motithang, Kawangjangsa, & Changangkha)
- Local Plans (Zilukha, Jungshina, Samtenling, Hejo, Babena, Pamtsho)
- Local Plans (Taba, Dechenchoeling, Langjophakha)
- Local Plan (Kawang)
- Policy & Legislations
- How to raise financing and address resource constraints
- Public consultations

The Chairperson expressed gratitude to the Honorable MP's for their support and invaluable advices, and hoped they would attend the upcoming Thromde Tshogdes. The Chairperson also thanked the Thuemes and participants and concluded the 16th Thromde Tshogde Meeting.



Minutes recorded by Thinley Choden
Asst. Land Registrar, Land Section.