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The Process of Partnering: Gluing Contracts, Organizing and Finansing Together

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Abstract
Taking a practice based theory and political process approach, this paper discuss partnering as an example of a complex project operation, characterized by processual interactions between an emergent conceptual frame and the project's operational activities. Drawing on two case studies, it is analyzed how the governance frame of partnering projects is a combination of partnering elements, traditional contracts and financial arrangements. On the operational level these elements is continuously mobilized, negotiated and stabilized in their intersection with the practices and skill basis for the project. It is shown how incentives becomes especially problematic for the architects due to tensions between new and old contractual forms, and that project management levels are more successful in one case in mediating between operations and governance frames than in the other. The research implies that the governance frame and the operations of the projects are mutually interacting throughout the projects, in contrast to the traditional sequential phase breakdown structure in the partnering literature. The contradictory governance becomes a recurrent barrier for project operation management; forcing project participants to develop new sets of skills in dealing with partnering, thus entering an emergent process of developing the partnering practices on top of existing practices and institutions.

Keywords
Partnering, learning processes, practice theory, politics

1. Introduction

The spring of 2005 has been quite contradictory for partnering in Denmark. Several players have argued that by now partnering is a well-established and profitable practice (BEC, 2005; NCC, 2005). On the other hand the most prestigious partnering project of them all, the building of a new headquarters for the Danish State Radio, are facing serious problems with mutual claims measured in millions of Euros, between the main contractor and the client. Moreover, a critical case study on a less successful project (Gottlieb, Bang

and Larsen, 2004) fuelled a public debate over advantages and disadvantages of partnering, leaving the concept in less of a stabilized state, than should be expected, given the hundreds of realized projects (BEC, 2005; NCC 2005).

2. Method

This paper takes a practice based theory and political process approach to the shaping of partnering in Denmark (Koch, 2004; Gherardi et al, 2004), combining this understanding of the governance frame with a view of project processes as intersection of practices, proposing an understanding of the emergent and unstable conditions for partnering projects. In doing so, two case studies are presented and compared. The first is a municipality public school project the second is the building of a union headquarters. The aims and methods of the two case studies vary slightly, as they originate from two different research projects however both cases have been conducted as longitudinal in-depth processual studies.

The municipality case study builds on work by several researchers and students at the Technical University of Denmark. One study followed operation managers at meetings and during design activities, using interviews and participants observation over a period of 19 months. Another study focused on the governance frame of the partnership using interviews with selected actors. Interviewees encompassed representatives from the municipality, the client's counselor, the contractor, and the schools. Finally informal dialogues were carried out with architects and the consulting engineers. The union headquarters case builds on an array of field study method: Participant observation, interviews, questionnaires and workshops with project team participants. The study was conducted by researchers from the Danish Building Research Institute over a period of 2 years (Gottlieb et al, 2004).

3. Danish Partnering as Practice and Political Processes

Drawing on practice-based theory, building projects are understood as intersection of practices (Nicolini et al, 2003) related to professions, enterprises and the exercise of projects (Thuesen and Koch, 2003). Moreover practice relates to characteristic institutionally embedded cooperation patterns such as Design-Build Contracts and General Conditions for Consulting Services. Changes in practices involve barriers and tensions especially in an interorganizational setting as the construction sector. A political process approach is used to discuss the shaping of partnering in projects and in Denmark (Koch, 2004).

Research-wise a number of different definitions of partnering exist. Establishment of an interorganizational cooperation form characterized by trust is probably the most widespread. According to a practice based view however, any project setting would shape its own variant, as a result of a dynamic interplay of formal tools and informal processes (Bresnen and Marshall, 2002). It is argued that partnering consists of a governance frame of finance, contract and organizing elements. Understandings of partnering are approached through giving voice to practices in the Danish construction. To support the practice-perspective one can draw on questionnaire studies on experiences with partnering carried out in Denmark (BEC, 2004, 2005; NCC, 2005). These investigations show that the governance frames vary on the contractual and organizational aspects of partnering and especially on specific partnering elements. In the 2004 investigation, three common elements in 81 projects are identified, being the setting of common goals, common economic interests, and the exercise of common activities (BEC, 2004). A later survey (BEC, 2005) concluded that the predominant contractual governance frame of partnering project in Denmark is design-build contracts representing about 55% of the projects studied. General contracting is used on around 30% of projects, with the remainder being somewhat evenly distributed on other contractual variants. Types of financing and the economic results of the projects are not accounted for in the survey. The 2005-study further reports that 68 of the projects encompass incentives for designers (57%) and contractors (56%), whereas replacement of key personnel only occurred in 25% of the cases.

4. First Case Study: The Municipality School

The project concerns the development of 8600 sqm. school and the renovation of the four existing schools. In order to finance the project a sale and lease-back arrangement was established between the local council and a financial company, thus being the principal client; however the follow-through of the design and operation were run by local council representatives. With the aid of a client's counselor, with expertise on sales and lease-back arrangements a contact with both the financial company and a company specialized in leasing was entered. The four schools and a real estate were subsequently sold to the financial company, whereupon the sales income was invested in bonds. A design-build contract with a target sum was used. EU tendering was used in selecting construction partners, inviting five bids. Following the tender and a common kick off workshop a partnering agreement was signed between the client, the design-build contractor, the architect and the consulting engineer. These elements were used: a common project office, a steering committee, economic incentives, use of key performance indicators (KPI) and process evaluations.

The design-build contract specified services to be delivered by the contractor. The project was developed at €26 million of which €2.6 million was reserved for consultants' fees, € 12 million for the renovation of four schools, and another €12 million for the building of the new school. The project was carried out in three phases: concept/pre-design, design, and production, spanning a period of 28 months. The entire contractual structure is quite complex and was designed by bringing together known elements with more innovative elements of contracting. This constellation is a fragmented loose combination of a cooperation model (partnering), a contractual "safety net" (a traditional design-build contract), and a financial instrument. Moreover it can be seen as an emergent model, developing over time from a financial arrangement into a comprehensive long-term development of public services. In such a loose emergent partnering model, the various actors have different interpretation of the cooperation and its rules.

Subsequent to the successful delivery a surplus was shared in the following way. The original incentive budget of €336.000 was transformed to a profit sharing scheme giving 90% to the contractor and 5% each to the architects and engineers. A supplementary €350.000 was saved up and shared 50/50 by the local council and the contractor. The participants considered the overall project a success, as it was finalized on time and budget, giving more surplus than expected, and an organizational development important for the future school activities was realized.

However, critical findings also exist. At an early stage the architects were not prepared to share office with the remaining project organization. Moreover in this process a characteristic "layering" of the project organization occurred. The incentives for the architects was e.g. related to the design-build contract and did not motivate the architects working with detailing to change and iterate too much, since this did not directly benefit them. The architects nevertheless chose to contribute to the positive partnership spirit, accepting a certain amount work at the operational level, though sometimes flawed by tensions.

5. Second case study: The union headquarters

The project is the construction of a corporate headquarters of 4900 sqm. for a central organization within the Danish trades union. The total cost of construction including estate was approximately €22 million over a period of 24 months. The client's selection of partners was based on two main conditions. Firstly, the client opted for the inclusion of project participants with union relations, giving rise to the selection of the architect and one of the two contractors. The second contractor was chosen as the company owned an attractive estate for the purpose and had previous experiences with partnering. The project was established

under a general contracting agreement, governed by a partnering agreement between the client, the architect, and the two contractors. An initial sum of €13 million excluding accommodations, costs of financing and estate was set as target price. During the design phase the project proposal was further developed and expanded. In addition to the traditional contractual terms for project completion, the partnering agreement encompassed a wide variety of specific partnering elements: (a) common design office and early participation of the contractor (b) a steering committee managing project organization; (c) economic incentives contract and open books; (d) process seminars and workshops. The two most influential partnering elements were the economic incentives contract and the early participation of the contractor in the design process.

During the first phase the project was organized in a heterarchical structure situated around the common design office practices. In concurrence with the partnering charter of agreement the architect, client and contractor were to develop the main project, ensuring buildable solutions under architectural and financial considerations. However, in spite of this agreement the participants acted according to traditional practice as regulated by the general contracting agreement. The contractor tried to optimize buildability on the expense of architecture, whereas the architects were unwilling to compromise on quality to cut costs. The main contractor was accused of running the project as a hidden design-build project, thus counteracting the intensions of the partnering agreement. The project participants attributed these problems to a number of factors, each relating to a lack of project management: Insufficient management, unclear conditions for the assignment of responsibilities and roles, and lack of insight into the process of partnering. In phase two opinions on the partnering process became more positive largely due to the introduction of a consultant taking on the conflict solving role, which the steering committee was intended to govern but never realized. On the problematic side several key project participants from phase one had been replaced, leaving the partnership impaired in terms of commitment and the understanding of partnering.

The project was completed six month late in September 2002. A number of improvements had been incorporated in agreement with the client, wherefore the building eventually cost €4 million more than agreed upon at the start of phase two, meaning that the incentives contract came into play. This contract involved a profit sharing scheme giving 45% of the surplus to the client, 20% to each contractor and 15% to the architect. However, in the case of deficits, 30% was to be covered by the client, 25% by the contractors, and 15% by the architect. Out of the realized deficit, €1.62 million was to be covered by the two contractors and the architect, with the client covering the remaining €2.38 million as compensation for extra facilities on the building. At this stage serious allegations between the participants were surfacing. The architect claimed to be without part in the deficit blaming the main contractor for the deficit and hiding the true state of affairs; a view shared by the other contractor. The economic incentives contract thus played an important part in the shaping of the project operations, effectively offsetting the intended development of a partnering practice imbuing the organization with a readiness for dealing with processual interactions between an emergent conceptual frame and the operational activities.

6. Discussion and conclusion

The two cases share a partnering version, which is glued together of specific contextual financial, contractual and organizational arrangements. They are typical Danish cases according to BEC (2005). They are at the same time project specific variants on a number of points: Compared to British cases (Bresnen and Marshall, 2000) the presented cases are characterized by a loose *selection* of partners. In the union case previous relations counted, whereas the school case used a call for tender as selection criteria. The two cases draw on two different types of traditional contracts: A design-build contract and a general contract. In the school case moreover the financial arrangement introduces an extra contract and actor. In the *contractual* arrangement it should moreover be noted that the share of the architects and engineers are rather different in the two cases and proves problematic. In the first case sharing is contained in the design-build

contract and limits the architects' and engineers' part to 5%, whereas the union project operated with an architect's share of 15%, causing serious problems. The two projects experience very different *emergent project management practices*. In the school case the project managers successfully mediate between the practical intricacies amongst the participating enterprises at an operational level and the governance exercised by the steering committee. Several times the steering committee scores high in the KPI-evaluation in situations where project employees are facing problems. The weaker incentives in the school case were a barrier for the architects working at the operational level, which they felt they did for the sake of a good collaborative spirit. In the tension between steering committee and project group, the client's counselor in the union case played an important and useful role.

The processes reveal a set of demands for new skills, as several *key learning processes* occurred. The clients as the rest of the actors had their first experiences in handling the contents of this type of contract and organizing. As a result of the financial, juridical and organizational fragmentation a common enterprise was strongly needed to maintain, renegotiate and develop the partnership. The principal learning of the architects was e.g.: The need of developing budget incentives more attractive than the design build contracts; learning to limit involvement in deficit sharing. A much stronger links between architectural design and construction costs should be strived at since design choices impact costs later on.

The research implies that the governance frame and the operations of the projects are mutually interacting throughout the projects, in contrast to the traditional sequential phase breakdown structure often assumed in the partnering literature. Contradictory governance is a recurrent barrier for project operation management; forcing participants to develop new skills in dealing with partnering. In doing so they enter in an emergent process of developing partnering practices on top of existing practices and institutions.

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