

Sarasota Florida Herald Tribune

July 6, 2004

<http://www.heraldtribune.com/apps/pbcs.dll/article?AID=/20040706/NEWS/407060516/1060>



Photo: A newly elected slow-growth government in Bradenton Beach recently hired attorney Ralf Brookes, photographed on the boardwalk near the city pier.

In defense of 'old Florida' Lawyer takes on the big-buck developers, bulldozers, polluters

By MITRA MALEK

Environmental lawyer Ralf Brookes has defended trees, lions, shorelines and the people who fear money is stamping out nature and state history.

He loathes suburban sprawl and commercialization, saying it will clog the Sunshine State's land, taint its waterways and wipe away its heritage.

Bradenton Beach, a sleepy fishing village turned tourist attraction, is in sync with Brookes' beliefs.

A new slow-growth City Commission hired him this year to stem increasing development that's spawned million-dollar condos, pushing out full-time residents and their small houses.

He's one of only a handful of lawyers statewide committed to environmental and historic preservation, and some say he's among the least conventional.

Many hail Brookes as a nature lover who will stick up for animals, plants and the lay citizen with a zealot's persistence. They say he's innovative at interpreting case law.

Others say his novel arguments, though always ethical, can border on implausible.

A tree-hugger

In the rear of his black Honda Element, Brookes keeps a midnight-colored canvas bag stuffed with a change of clothes. A Redington Red Fly fishing rod is next to a small brown trunk of paperwork for his cases: saving the Sanibel Island drawbridge, waste-water discharge in Venice's Curry Creek, preserving Babcock Ranch in Charlotte County.

"I travel so much, I go from one city to the next," says Brookes, who lives in Cape Coral. "I try to get home, but I can't always."

Brookes estimates that 20 of his cases are in litigation, and he's advising another 20 or so clients.

He says he weighs one factor when signing on with a client: He must believe in the goal -- it doesn't matter where in the state the case is or how much money can be made.

"One thing about Ralf: He definitely has a passion on these issues," says Matt Bixler, an environmental policy specialist with the Conservancy of Southwest Florida. "He doesn't just view it as a job. He's at public meetings when he's not even representing a group."

He's known to help folks with testimony, give pointers on how to get government's attention and offer other general advice, all free of charge.

"Sometimes a group of citizens don't know what they can do," says Bill Spikowski, who owns a Fort Myers consulting firm that specializes in planning issues. "Sometimes they don't even know something can be done. He's funny and engaging, and he makes people care."

A bona fide tree-hugger, Brookes sued Charlotte County in 2000 on behalf of the EverGreen environmental group -- and named 27 historic cambian oaks among the plaintiffs.

"That certainly shows a respect for life," says Elliot Kampert, who was Charlotte County's planning and zoning director during the lawsuit.

EverGreen won the case on appeal. But by then the oaks had been cut down to make space for an affordable housing complex because the courts first approved the plan by CED Holding Ltd.

"It really kind of pits two valid public needs against each other," Kampert says. "The need to provide housing for the financially challenged and saving a tree canopy."

County law bans cutting down so-called heritage trees unless the applicant has made every effort to preserve them. For Brookes, the trees clearly trumped the homes.

"Those things were huge and hundreds of years old," Brookes says. "To be chopped down in 15 minutes is terrible."

The trees were gone, but the suit forced the county to get public input during Development Review Committee meetings. That committee, which has final decision-making powers on development, signed off on the complex before hearing EverGreen's opposition.

Battling Brookes

Fighting Brookes can be a tedious, time-intensive task, opponents say.

...Charlotte County Assistant Attorney Brad Bradley says. "you have to respond to things you don't typically have to respond to."

Last year, Brookes tried, unsuccessfully, for a Charlotte County refuge that wanted to continue housing wild animals. Lions, Tigers & Bears Inc. took in old circus animals and other exotic pets.

"How do we manage these wild animals that people have taken out of the wild for their own usage?" Brookes asks. "There should be a place for these animals to go. It's a problem people have created."

He cited the Florida Right to Farm Act, arguing that lions are agricultural animals and that the county's zoning ordinance didn't specifically exclude exotic species.

"He's not going to let go of any unconscionable argument to defend his client," Bradley says. "He tries new things."

Brookes, 40, has spent his career focused on the environment and land use. He says the two are inextricably linked: People help or harm the environment based on how they manipulate land.

His love of nature started with the frogs and crayfish he'd spot in the creek near his childhood home outside Detroit. His dad took him there when he started walking, and Brookes kept going back until he moved to study ocean reefs at the University of Miami.

Fit, with a full head of silver hair, Brookes still finds time for surfing, kayaking, camping -- anything outdoors.

As a college student he often read John D. MacDonald murder mysteries, which were set along Florida's beaches. "In the middle he would get up on his soapbox and talk about overdevelopment on the barrier islands, the motivation of profit over preservation," Brookes says.

Brookes realized his best shot at saving creeks and reefs would be to influence policy as an environmental lawyer: "Make science turn into law faster," he says.

He wrote wetland and wildlife regulations with a firm in Miami after earning his law degree in 1988 from the University of Florida. He tackled similar topics as Sarasota County's assistant attorney in the early 1990s.

But it was his work in later years, as a solo practitioner and counsel to Monroe County, that captured the attention of the Bradenton Beach commissioners.

A solid record

Brookes helped draft and defend ordinances that reduced growth in the unincorporated areas of the Florida Keys to one-fifth its historic rate. The law has survived challenges in state and federal court.

It limits the number of new homes by letting the county dole them out based on environmental factors and location.

"We were growing too fast," said Timothy McGarry, Monroe County's director of growth management.

The county also has won legal battles over a vacation rental ordinance Brookes drafted in 1997, which bans rentals of 28 days or less in certain areas, because rentals were pushing out full-time residents.

"He can defend cities -- especially with development," Bradenton Beach Mayor John Chappie says.

In Sarasota County, he's working with The Alliance for Siesta Key's Future Inc. to stop developers from increasing density along a beachfront zone.

"They're putting up these McMansions where there used to be small Florida beach houses," Brookes says, drawing parallels to Bradenton Beach's plight.

In the 1920s, when open land was more plentiful, folks bought two lots and built one house in the middle of them. Recently, people tore down the old houses to build two houses on the land.

Sarasota County argues that the permitting for the houses is consistent with the comprehensive plan because on the day it was adopted in 1989, zoning allowed for one house on each lot.

Brookes and TASK argue that the county issued the permits illegally because the current density allows the rebuilding of only one house.

This month a judge ruled in favor of Sarasota County, and TASK is raising funds to file an appeal.

Brookes is representing Lee-Charlotte Land-Water Monitors Inc., which opposes a massive development plan that could span Lee and Charlotte counties.

The nonprofit corporation is ready to challenge comprehensive plan amendments that would allow for Babcock Florida Co. to build a town on part of 90,000-acre Babcock Ranch.

It's also supporting a coalition of local governments and community and environmental groups trying to raise hundreds of millions of dollars to buy the ranch.

Babcock Ranch links conservation land between Charlotte Harbor and Lake Okeechobee and is home to endangered Florida panthers, black bears and several threatened species of birds.

Its Telegraph Cypress Swamp helps provide fresh water to the Caloosahatchee River.

"It's a super habitat sitting on wetland for water resources," Brookes says.

Babcock submitted plans to build the town to Charlotte County in spring 2002. After Lee County officials and environmental groups opposed it, the company started talks with the Florida Department of Environmental Protection, which wanted to buy the land for public use.

But those negotiations ended when Babcock asked the DEP to also buy a hotel, a rock mine and a water utility. DEP said it was authorized to buy only the land.

Brookes also advised Manasota-88 in its recent quest to stop Venice from pouring up to 3 million gallons of treated waste water a day into Curry Creek. Right now, the city is allowed to discharge up to 1.5 million gallons a day, several days during July and August.

The creek's fresh water flows into Roberts Bay, a state-protected estuary.

Manasota-88 president Glenn Compton frequently turns to Brookes for guidance on state and federal permitting issues. Brookes is an "an excellent resource" on those topics because he travels all over the state, Compton says.

Last week, Sota-88 retained Brookes to represent the group in its challenge to Bradenton's approval of high-rise condos on Perico Island.

"There's not too many of us," says Dan Lobeck, a Sarasota environmental and land-use attorney. "There's a lot out there with the big bucks when it comes to development. The deck is stacked against us in many ways."