

## **Illegal Immigration Issue Analysis Addendum Day Laborers and Hiring Sites**

On February 5, 2008, the Board of County Supervisors at Supervisor Principi's request directed staff to prepare an "options paper" that would identify legal and non-conventional options to address impacts of day laborers on the community. This addendum gives information on past efforts on addressing the issue of day laborers with updates on current situation and efforts.

### **Background**

Prior to the Board's 2007 adoption of its first immigration enforcement policies, the County attempted to tackle one of the most visible elements of its growing immigrant population - day laborers and unofficial hiring sites. Responding to increasing complaints from residents and businesses, the Police Department arrested 24 individuals for loitering on the 7-11 property at what is now the intersection of Prince William Parkway and US Route 1. The arrests sparked a community-wide debate beginning at a town meeting in November 2004 and culminating in the final report of a BOCS-appointed Day Laborers Community Task Force (DLCTF).

Community concerns were wide ranging and aligned on both sides of the debate. Site specific issues of traffic congestion, public urination, public drunkenness and harassment of pedestrians and business customers were met with calls for a safe hiring site. Concerns over the safety and welfare of the day laborers (such as mistreatment, no payment for work completed, and unsafe work conditions) were offset by concerns that public funds should not be used to the benefit of individuals who entered, or remain, in this country illegally.

The DLCTF focused on their two-part charge from the BOCS - (1) review the outcomes of the recent [town hall] meeting and make recommendations to the Board as to the feasibility of addressing community issues that have arisen in connection with the gathering of day laborers; and (2) consider a number of factors including, but not limited to, industrial or business location, impact on adjacent property uses, proper sanitary facilities, shelter from the elements, an organizational component for day laborers and employees, a creative financial plan that considers all possible sources of funding (not necessarily County funding), workforce training and development. The final report was accepted by the BOCS; however, no action was taken.

Using the locational criteria recommended by the DLCTF, an attempt was made to create a privately-funded hiring site along the US Route 1 corridor, but that did not come to fruition.

### **Current Situation**

The downturn in residential construction has decreased the demand for day laborers, but has also increased the competition for non-construction jobs. At this point in time, several unofficial hiring sites can still be found on US Route 1, primarily in the area between Mary's Way and Prince William Parkway, in the Coverstone area off Route 234, and along Old Centerville Road near the Prince William/Fairfax County line. The problems associated with those sites mirror those stated earlier.

Regional and national studies ("An Account of Day Laborers in Fairfax County," 2004, and "ON THE CORNER: Day Labor in the United States," 2006) show that the majority of day laborers are hired by private citizens and contractors for construction, site/landscape and janitorial jobs. While formal hiring centers exist nationwide, 79% of the sites used by workers are informal.

## Responses by Other Communities

Communities across the country have taken a variety of positions on the day laborer issue, from creating community sponsored hiring centers, to adopting and enforcing ordinances to discourage informal congregating of laborers and employers, to doing nothing. These options are discussed below, with highlights regarding successes and potential hurdles.

- Formal Hiring Centers

According to “ON THE CORNER,” in 2006, 63 day labor worker centers were operating in 17 states. Some centers are open air shelters with sanitary facilities, focused solely on matching potential employers with laborers, others are housed in buildings that incorporate job training and/or social service information for workers and their families. Some centers are staffed, others are operated by the laborers themselves. As would be expected, the staffed centers where business is conducted indoors have the least community complaints around disorderly activities.

Formal centers are most often established after problems arise with informal hiring areas. While it may be desirable for a number of reasons to locate the formal center “out of sight,” the centers that are not in close proximity to the original informal areas tend to be less successful because they are not as visible or as easy to access for both employers and laborers.

Formal centers may have government funding, either in terms of start-up or on-going operating funds, but others are operated privately. The biggest hurdle for a purely private operation can be acquisition of a site. Of the 5 success stories portrayed in “Day Laborer Hiring Sites - Constructive Approaches to Community Conflict,” (2001), 4 have some local government participation, and 3 used public sites. Obtaining zoning approval of sites in locations that meet the employers and laborers needs can also be problematic, especially if residents and businesses in the desirable area have already had problems with informal sites.

In response to the Board’s directive, staff made informal contacts with representatives of the faith community to gauge their interest in provision of services to day laborers. They expressed a willingness to explore this issue but had serious concerns about general support from the community and the elected leadership to entertain non-enforcement solutions to the day laborer issue.

- Ordinances

In an effort to deter informal hiring sites, some localities have enacted specific ordinances that criminalize the day laborers’ search for work. Many of these ordinances have come under attack, under Constitutional protections for free speech, due process, equal protection, and uninhibited intrastate travel. A 1915 ruling by Supreme Court that “the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that is was the purpose of the 14<sup>th</sup> Amendment to secure” has been used to find these types of ordinances unconstitutional. Anti-solicitation ordinances can be problematic to enforce because most require that the laborer or employer to be caught in the act of solicitation.

Most communities already have ordinances targeting problem behaviors, and enforcement against behavior, rather than the mere presence of the laborers, is likely more defensible. It may be that signage highlighting the problem behavior - trespassing, stopping in the public right-of-way - would aid in deterring some of the problematic behavior and, if necessary, defending enforcement.

- Focus on the Employers

In some communities the focus is on laborers and their employers. Community members may “stake out” centers, photographing vehicle license plates and individuals and posting them online. They believe that elevating the employer’s responsibilities to ensure employees’ legal status will deter future hiring. If the hiring dries up, they surmise, the hiring sites will go away. Rarely has this occurred, and often the end result is a confrontation between employers, laborers, and community members.