



Deschutes County Board of Commissioners  
1300 NW Wall St., Suite 200, Bend, OR 97701-1960  
(541) 388-6570 - Fax (541) 385-3202 - [www.deschutes.org](http://www.deschutes.org)

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## **AGENDA REQUEST & STAFF REPORT**

**For Board Business Meeting of May 23, 2016**

**DATE:** May 20, 2016 *ll*

**FROM:** John Laherty                      Legal: 541-388-6624

**TITLE OF AGENDA ITEM:** Deliberation of the request of Morgan W. Parker LLC, dba College Hunks Hauling Junk, to obtain a franchise exemption under Deschutes County Code 13.16.020(F).

**PUBLIC HEARING ON THIS DATE?** No.    The record is closed as of Thursday, May 19, 2016 at 5:00 p.m.

**BACKGROUND AND POLICY IMPLICATIONS:**

This matter was brought to the Board's attention at a Work Session on April 18, 2016. College Hunks Hauling Junk has submitted a written request for exemption from the County's franchise requirements. Current franchisees have been notified of the exemption request and have submitted written responses in opposition.

At the hearing on 5/16/16 the Board agreed to keep the paper record upon until the close of business on Thursday, 5/19/16 and continue its deliberations on 5/23/16.

**FISCAL IMPLICATIONS:**

None.

**RECOMMENDATION & ACTION REQUESTED:**

A Staff Report was previously submitted. The report included Mr. Schimke's recommendation that the Board adopt a resolution denying College Hunks Hauling Junk's request for exemption.

**ATTENDANCE:**     John Laherty, Legal Department  
                             Timm Schimke, Director, Solid Waste

**DISTRIBUTION OF DOCUMENTS:**

Legal  
Solid Waste

**DOCUMENTS SUBMITTED AT BOCC CONTINUED HEARING 5/23/16**

7	5/19/16	Eager Law PC	B.A. Brownrigg Investments, Inc. dba Cascade Disposal Company	7
8	5/19/16	Merrill O'Sullivan	Bend Garbage Company dba Bend Garbage & Recycling;  High County Enterprises, LLC dba High Country Disposal;  LaPine Disposal & Recycling, Inc. dba Wilderness Garbage & Recycling Service;  Deschutes Recycling, LLC  BBC Management, LLC, dba Mid- Oregon Recycling;  Deschutes Transfer Company	2
9	Undated	Morgan Parker	Applicant	1
10	5/3/16	Jenny Parker	Applicant	1

**ADDENDUM 7**

**5/19/16**

**Eager Law PC**

**Representing**

**B.A. Brownrigg Investments, Inc. dba  
Cascade Disposal Company;**

# EAGERLAWPC

62910 O.B. Riley Road #130 | Bend, Oregon 97703 | (541) 323-9726 | eagerlawpc.com

May 19, 2016

## VIA EMAIL ONLY

John Laherty  
1300 NW Wall Street, #205  
Bend, OR 97703  
john.laherty@deschutes.org

**Re: Morgan W. Parker LLC dba College Hunks Hauling Junk Application for Exemption**

Dear Mr. Laherty:

I am writing, on behalf of my client R.A. Brownrigg Investments, Inc. dba Cascade Disposal ("Cascade"), to follow up on a number of issues that arose during the Board of County Commissioners' ("Board") May 16 hearing on the above referenced application ("Application").

### **1. The Construction Cleanup Example Is Irrelevant to the Board's Decision on the Application.**

Via *ex parte* communication with the Board, College Hunks Hauling Junk ("CHHJ") argues that its services are similar to those provided by Lets Construction Cleanup Company, Inc. ("Lets"). Cascade only received this communication following the hearing, and it should not be considered as a basis for reaching a decision. In any event, the Lets example is not determinative of the issue before the Board.

As a preliminary matter, Cascade has not investigated the extent of services provided by Lets and therefore does not have a position at this time regarding the permissibility of Lets' services under County code. Moreover, the permissibility of Lets' services is not the issue before the Board. The Board has not determined – and has not been asked to determine – whether Lets' services are permissible. It should not assume that they are permissible; such a conclusion is outside the scope of the Application.

Even so, a cursory review of Lets' website indicates some apparent distinctions with CHHJ's services. Lets markets itself as a construction cleanup company. In contrast, CHHJ's very name includes the words "hauling junk." And while CHHJ has attempted to portray its core service as on-site labor for the purpose of the Application, its marketing materials and even its investment in a dump and dropbox-style truck suited for solid waste collection, hauling and disposal demonstrate that transportation ("hauling") solid waste ("junk") is an important part of the value proposition CHHJ offers to consumers.

The Lets example therefore does not provide a basis upon which the Board should grant the Application.

## **2. College Hunks Hauling Junk ("CHHJ") is Operating in Violation of Oregon's Contractor Licensure Requirements**

During the hearing, counsel for CHHJ represented that CHHJ was not required to obtain an Oregon Construction Contractor's Board ("CCB") license in order to perform the demolition activities it represents it performs, including the demolition activities related to the removal of hot tubs.

Review of ORS Chapter 701, in fact, demonstrates that CHHJ cannot lawfully perform the demolition services without a CCB license. In Oregon, a person or business offering contractor services must hold a CCB license unless:

*A person working on one structure or project, under one or more contracts, when the aggregate price of all of that persons contracts for labor, materials and all other items is less than \$1,000 and such work is of a casual, minor or inconsequential nature. This subsection does not apply to a person who advertises or puts out any sign or card or other device that might indicate to the public that the person is a contractor.*

(Emphasis added) ORS 701.010(4).

That exemption does not apply to CHHJ for at least the following reasons:

- a. CHHJ has worked on more than one "structure" and on more than one "project," by removing multiple hot tubs. (See, facebook posts by CHHJ, enclosed as Exhibit A).
- b. CHHJ advertises services that might indicate to the public that the person is a contractor, but also actually represents that CHHJ is "fully licensed, bonded and insured." (See, CHHJ website, enclosed as Exhibit B).

Simply put, CHHJ simultaneously claims: (1) that its hot tub disposal is incidental to its primary demolition activities; (2) that it does not need to be licensed to perform those demolition activities; and (3) that it actually *is* "fully licensed, bonded and insured" to perform those activities, when in fact it is not.

CHHJ's claims are contradictory and inconsistent with Oregon law. CHHJ should not be provided an exemption to provide disposal services that are allegedly incidental to a demolition service which it is not licensed to do. As described in my prior correspondence, even if CHHJ were to obtain the required licensure for demolition, the hauling and disposal of a bulky, heavy hot tub is not incidental to what CHHJ claims is the relatively minor amount of demolition work required to remove it.

JOHN LAHERTY

May 19, 2016

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### **3. Some of CHHJ's Activities Appear to be Nothing Short of Garbage Removal Service.**

The photos enclosed as Exhibit C show the load in the back of the CHHJ dump drop-box truck in Bend on April 5, 2016, at a customer's residence. I invite the Board to make its own determination of whether the contents of the truck depicted in Exhibit C is anything other than solid waste destined for Knott Landfill.

### **4. CHHJ is Attempting to Apply a Florida Business Model to Oregon**

As described in some detail in my previous correspondence, CHHJ and its competitor 1-800-GOT-JUNK do not operate in Oregon outside Portland, which, unlike Deschutes County, limits its franchised services to curbside pickup.

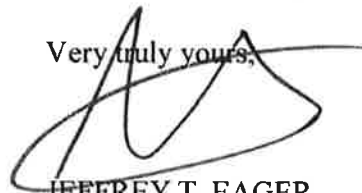
There is a very good reason that CHHJ and 1-800-GOT-JUNK do not operate outside Portland in Oregon: their business model relies upon solid waste ordinances dramatically different from Deschutes County's. CHHJ admitted during the hearing that one of the reasons they are reluctant to use Cascade's and other franchisees' services is because CHHJ has not budgeted for those services.

The sole lawful way for CHHJ to continue to operate in Deschutes County, however, is to utilize the franchised system that the County has provided its residents, with the attendant environmental, safety, and consumer protections. This is the way things are done in Oregon, including in Deschutes County, and if playing by the rules requires CHHJ to adjust its budget to provide for the solid waste rates established by the Board, this is nothing the County does not ask of all businesses and residents within its boundaries.

### **5. Conclusion**

Cascade appreciates the Board's attention to this matter, and looks forward to working with CHHJ to provide it solid waste transportation and disposal services pursuant to Cascade's franchise and County code.

Very truly yours,



JEFFREY T. EAGER

jeff@eagerlawpc.com

JTE

Cc: Pat Cougill (via email)

Terry O'Sullivan (via email)

Exhibit A  
P. 1/2



Like Comment Share

56

Write a comment...

College Hunks Hauling Junk and Moving (Bend, OR)  
March 20

Hot tub removal today! Job went great!



Like Comment Share

7

Chronological

Diana Havard Awesome!  
Like Reply 1 March 20 at 1:09pm

Write a comment...

College Hunks Hauling Junk and Moving (Bend, OR)  
updated their cover photo.  
March 17

College H,U,N,K,S. Moving is in FULL SWING! Give us a call for a FREE Move Estimate! If you have a truck and just need Move Labor, We do that too!!



Exhibit A  
P. 2/2



Like Comment Share

22

1 share



Write a comment..



**College Hunks Hauling Junk and Moving (Bend, OR)**

March 14

Our H.U.N.K.S. Removing a Jacuzzi from a client's home! Give us a call for a FREE Estimate on a Hot tub removal! Great job Matt and Zach!



Like Comment Share

20

1 share



Write a comment..



**College Hunks Hauling Junk and Moving (Bend, OR)**

March 14

Check out this in-depth interview with College Hunks CEO Omar Soliman. Omar talks about the WORST job he EVER had and what he learned from it! <http://bit.ly/1RhG9yr>

**Omar Soliman Featured on IdeaMensch - College Hunks**

Omar Soliman reminisces about starting the company with Nick Friedman and discusses his typical day. He also describes the worst job he's ever h

[HTTP://BIT.LY/1RHG9YR](http://bit.ly/1RHG9YR)

Like Comment Share

2



Write a comment..



Exhibit B



1-888-689-5999

LOCAL MOVERS	JUNK REMOVAL	DONATION PICKUP	MORE SERVICES	FAQ
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HOME PICKUPS   OFFICE PICKUPS   SEASONAL PICKUPS   ULTIMATE SPRING CLEANING GUIDE   GET YOUR FREE QUOTE

# HOT TUB REMOVAL SERVICE

## Hot Tub Removal & Recycling

So you've got an old hot tub and it's just kind of sitting there... *staring at you*. Quit staring at the **old tub** and call College Hunks Hauling Junk! No matter how big the **hot tub** or whether it's **in-ground or above-ground**, we know how to handle it, no problem!



## How Our Hot Tub Removal Service Works

Upon arrival, your fully licensed, bonded and insured College Hunks Hauling Junk team will assess the hot tub, it's size, and the best route for removal.

Once they've given you your free, no obligation price quote, the HUNKS will **dismantle the hot tub, remove it along with any and all debris, and load it onto the truck**. From there, the hot tub will be disposed of in the most **eco-friendly** manner possible, leaving you free to concentrate on what to do with your new space!

Schedule Online: Select your services and enter your zip code to the right, then click the "Check Local Availability" button. You may also click here to proceed directly to our online scheduling tool.

## Features of Our Stress-Free Hot Tub Removal Service

- **NO PRESSURE:** You always receive a **free, no-obligation estimate**.
- **PEACE OF MIND:** You'll be able to breathe easy knowing that every College Hunks team member is **professionally trained**, in addition to being **fully licensed, bonded and insured**.
- **LAST MINUTE MIRACLES:** Even when you need help quickly, our **Priority Same Day** and **Next Day** service options mean that we can take care of what you need, even at the last minute in most cases.
- **ECO-FRIENDLY:** Take pride in knowing you're doing your part to help the Earth. College Hunks Hauling Junk® **recycles or donates over 70%** of everything we haul, distinguishing us as the industry's true leader in **eco-friendly disposal**.
- **RELAX & SMILE:** You'll be all smiles because the HUNKS are sure to deliver the most **courteous, efficient, friendly and stress-free service** you've ever experienced!

## STEP 1

Select Your Service(s)

LOCAL MOVERS

JUNK REMOVAL

DONATION PICKUPS

PROFESSIONAL PACKING

## STEP 2

Enter Zip Code

Enter Zip

Check Local Availability

**Call us today at 1-888-689-5999 or schedule your free estimate online. It's easy as 1,2,3!**



# **ADDENDUM 8**

**5/19/16**

**Merrill O'Sullivan**

**Representing**

**Bend Garbage Company dba  
Bend Garbage & Recycling;**

**High County Enterprises, LLC dba High  
Country Disposal;**

**LaPine Disposal & Recycling, Inc. dba  
Wilderness Garbage & Recycling Service;**

**Deschutes Recycling, LLC**

**BBC Management, LLC, dba Mid-Oregon  
Recycling;**

**Deschutes Transfer Company**

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TERRENCE B. O'SULLIVAN  
terry@merrill-osullivan.com

JANEL GILLIHAN  
Legal Assistant

VIA EMAIL

May 19, 2016

JOHN E. LAHERTY  
OFFICE OF DESCHUTES COUNTY COUNSEL  
1300 NW WALL STREET, SUITE 205  
BEND, OR 97703

**Re: College Hunks Hauling Junk  
Application for Exemption**

Dear John:

I have just a couple of quick points based on the Applicant's presentation and the Board's apparent concerns at the May 16 hearing.

The Applicant attempted to justify its request through the use of two extreme examples, the case of the stinking carpet and the case of the vile hoarder. We are all prone to the use of extremes in attempting to make a point. In this instance the tactic serves to underscore my position that no exemption is required for the bulk of CHHJ's activities. In the stinking carpet case, CHHJ will be performing the labor required to remove the carpet. The act of then hauling that carpet for disposal is the equivalent to a janitorial service hauling the results of its labors to a disposal site. The haul is "self hauling" within the code definition. No exemption is required. If, on the other hand, the homeowner or occupant pulls up the carpet and CHHJ is simply loading and hauling it is providing "service" within the code definition and a franchise is required.

The hoarder example is similar. If CHHJ is retained to clean out a residence abandoned by a hoarder, the cleanout is the equivalent of janitorial service. The haul is then self hauling within the code definition. If, on the other hand, the property owner or new occupant assembles the mess and the role of CHHJ is to load and haul, it is providing service and a franchise is required.

Although the topic does not fall within the scope of the CHHJ application, Commissioner Baney raised questions concerning construction cleanup. We have previously dealt with the issue within the City of Bend. The answer is similar to the stinking carpet and hoarder situations. The initial question is "what is the primary scope of the job? If the job is truly construction cleanup, meaning employees on the ground actually cleaning up the construction site and placing refuse in trucks or containers the job is construction cleanup and is analogous to janitorial service. If, on the other hand, the contractor stockpiles waste or recyclable material, or places it in containers for disposal, a third person or entity loading and hauling the stockpile or hauling the contractor-loaded container for compensation is transporting solid waste in violation of the ordinance. To date we have been able to deal with the issue appropriately without County involvement. There may come a time, however, at which Code Enforcement involvement will be required.

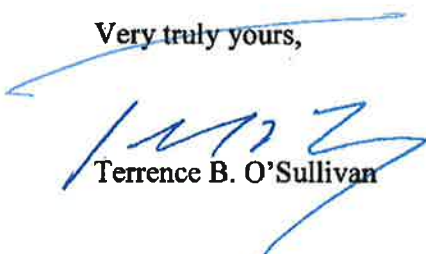
Please include this letter in the written record.

John E. Laherty  
Office of Deschutes County Counsel  
May 19, 2016  
Page 2

I will be available to answer any questions which might arise.

Thank you for your cooperation.

Very truly yours,



Terrence B. O'Sullivan

C: Bend Garbage & Recycling (via email)  
High Country Disposal (via email)  
La Pine Disposal & Recycling Service (via email)  
Deschutes Recycling (via email)  
BBC Management (via email)  
Jeff Eager (via email)  
Patrick Cougill (via email)

# **ADDENDUM 9**

**UNDATED**

**Morgan W. Parker, LLC dba College  
Hunks Hauling Junk**



College Hunks Hauling Junk and Moving

### **Hot Tub Demolitions**

The hot tub demolitions and removals which were discussed at the hearing and referenced in Mr. Eager's letter of May 13, 2016 were both 4-person units. The price charged to both clients were **\$295.00**. For a 6-person unit the charge would be **\$405.00** and an 8-person is **\$515**.

Demolition of both hot tubs involved removing the side paneling with a hammer, drill, crowbar, sledge hammer, Sawz-All, Safety Goggles, gloves.

Removing the excess weight from the hot tub is necessary. The excess wood paneling and framing adds hundreds of pounds to the total weight and is removed by the HUNKS. Once the excess wood is removed, the HUNKS tilt the hot tub on to its side for removal. **4 person Hot tubs** can weigh upwards of **700-1000 lbs**. **6 and 8 Person Hot tubs** are typically **900-1200 lbs**. The removal of both Hot Tubs in question consisted of removing paneling and framing.

Lifting of both Hot Tubs was accomplished by the use of Shoulder Straps which is a tool that is used by professional movers. We also use 4 wheel dollies to roll the Hot Tub on while on solid surfaces. The box of the Junk Truck was then lowered to the street and placed on the ground. The Hot Tub was then rolled into the box and secured for transportation.

When a Hot Tub is set down inside of a deck, the HUNKS must remove deck boards around the perimeter of the tub. Once the perimeter boards of the deck are removed the HUNKS proceed to use a Sawz-All to cut the tub into manageable pieces. This allows the HUNKS to lift the tub out of the lowered position. Tubs are typically made of fiber glass. Proper personal protective equipment is utilized in this situation. Respirator / facial masks are used and always eye protection and gloves.

Thank you,

/s

Morgan W. Parker

College Hunks Hauling Junk and Moving

## **ADDENDUM 10**

**5/3/16 EMAIL FROM JENNY PARKER**

**Morgan W. Parker, LLC dba College  
Hunks Hauling Junk**



**From:** Jennifer Parker [<mailto:jenny97701@gmail.com>]

**Sent:** Tuesday, May 03, 2016 4:04 PM

**To:** Tammy Baney; Alan Unger; Tony DeBone; Doug Knight

**Subject:** Construction Site Cleanup / Lets Construction Cleaning Unlimited Services / Oregon

<http://www.letsconstructioncleaning.com/index.html>

Please consider this information from the website for our hearing on May 16th. They have been performing similar services since 2008. Offering clean up inside and outside commercial and residential with recycling. They are not a scheduled trash and curbside garbage collection company. They are a non franchised clean up and haul away company. Exactly, the type of service we intend to offer.

Thank you,

Co owner  
Jenny Parker