

www.pvskiers.org info@pvskiers.org

President's Message

Skiing and the Law:

Along with life's controversies, life's principles impinge on skiing. This month, I discuss ski cases. The first held that the Aspen Ski Company, including Snowmass where many of us ski, cannot refuse to include Aspen Highlands in its multi-mountain ski ticket. The second held that Alta can refuse access to snowboarders. Both raise the question of the extent to which businesses in commerce may set their own rules and terms for who they serve.

Section 2 of the Sherman Antitrust Act states that "Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce shall be deemed guilty of a felony..." (Quotations are shortened and citations omitted throughout without notations.) In 1919, in *United States v. Colgate & Co.*, the Supreme Court held that "an entirely private business" has the right to "sell to whom he pleases." Colgate was allowed to refuse to deal with retailers who wanted to resell its products at prices below those it set itself or with other retailers.

In Aspen Skiing Co. v. Aspen Highlands Skiing Corp, the Supreme Court described Aspen's ski resorts:

Aspen is a destination ski resort with a reputation for "super powder," "a wide range of runs," and an "active night life," including "some of the best restaurants in North America." Between 1945 and 1960, private investors independently developed three major facilities for downhill skiing: Aspen Mountain (Ajax), Aspen Highlands (Highlands), and Buttermilk. A fourth mountain, Snowmass, opened in 1967.

The Supreme Court said that when they were independently owned, Ajax, Highlands and Buttermilk and later Snowmass offered both independent lift tickets and an all mountain six day combined lift ticket. After it acquired Ajax, Snowmass and Buttermilk, Aspen Skiing refused to include Highlands in its combined lift ticket. Based upon the adverse impact to Highlands and ski customers and upon Aspen Skiing's own loss of revenue from its not allowing Highlands to participate in the joint ticket, in 1985 the Supreme Court unanimously affirmed a jury finding and lower courts that Aspen Skiing Company's refusal to continue the joint ticket was unjustified, "predatory," monopolistic conduct.

In a 2004 case, *Verizon Communications v. Trinko*, through Justice Scalia, the Supreme Court called *Aspen Skiing*, "at or near the outer boundary of § 2 liability" for illegal monopoly conduct. The Court did note:

The defendant, who owned three of those areas, and the plaintiff, who owned the fourth, had cooperated for years in the issuance of a joint, multiple-day, all-area ski ticket. After repeatedly demanding an increased share of the proceeds, the defendant canceled the joint ticket. The plaintiff, concerned that skiers would bypass its mountain without some joint offering, tried a variety of increasingly desperate measures to re-create the joint ticket, even to the point of in effect offering to buy the defendant's tickets at retail price. The defendant refused even that. We upheld a jury verdict for the plaintiff, reasoning that "[t]he jury may well have concluded that [the defendant]



elected to forgo these short-run benefits because it was more interested in reducing competition . . . over the long run by harming its smaller competitor.".... The unilateral termination of a voluntary (and thus presumably profitable) course of dealing suggested a willingness to forsake short-term profits to achieve an anticompetitive end. Similarly, the defendant's unwillingness to renew the ticket even if compensated at retail price revealed a distinctly anticompetitive bent.

(Emphasis by Court). Those who ski using a joint Aspen ticket benefit from the Supreme Court's antitrust ruling.

A second notable case is *Wasatch Equality v. Alta Ski Lifts Company* (Tenth Circuit U.S. Court of Appeals, 2016). Alta Ski Lifts is a privately owned Utah corporation that operates on leased Forest Service land. Alta bans snowboarding. Snowboarders claimed that this denial denies them the "equal protection of the laws."

The Court held that because the Forest Service allowed Alta Ski Lifts to admit snowboarders or not, "the complaint doesn't plausibly establish that the Forest Service 'approves' the ban itself, but rather at best indicates that the Forest Service annually approves a winter site operation plan that, in part, authorizes Alta 'to exclude any type of skiing device that [it] deem[s] creates an unnecessary risk to other skiers and/or the user of the device, or any device [it] deem[s] causes undue damages to the quality of the snow, or is not consistent with [its] business management decisions."

The 14th Amendment says that "no state" may "deny to any person...the equal protection of the laws." For there to be a violation there must be state as opposed to individual action. Notably, had the case been decided under the antitrust laws, Alta could have argued that snowboarding has different characteristics than skiing and that all but approximately three ski areas now accept snowboarders. Thus, snowboarders would be in different although parallel (to make a bad pun) markets, have broad access to ski mountains and would therefore not be competitively deprived. Additionally, unlike Aspen Skiing, Alta would have legitimate business purposes for excluding snowboards. Many skiers prefer snowboard free skiing experiences.

Questions of the extent to which people (and businesses) that engage in commerce are obligated to deal have substantial, profound impacts. Although peoples' general rights to refuse to deal are established, principles go back centuries that monopolists and those who control essential facilities must serve all comers. The proverbial Inn on the King's Highway that had space could not refuse travelers service. Wharf mongers had to serve all. Today, hotels may not unreasonably bar service nor may common carriers. After hard fought battles, civil rights laws bar discrimination. We may want to think about the extent to which sellers who enter commerce should be able to discriminate.

Aspen Skiing is a leading case. Generally, one can deal with whomever one wants (or not), but when one enters commerce, one becomes subject to limiting rules. Refusals to deal that result in monopolization, illicit discrimination or other harms yield to requirements of fair dealing. These are the lessons from ski areas that PVS members frequent.

Bob Jablon

The Executive Committee meets monthly, usually on the 4th Tuesday of the month, either in person or by conference call. In my previous message, I wrote that Executive Committee meetings by telephone or otherwise are open to any who want to attend and that we are open to member suggestions on all ski club matters. We consider ski trips and other events and activities; relationships with other clubs; membership; communications; finances and other issues relating to the club's well-being. I add that if any want to suggest or lead, where appropriate, events or outings in which they think other PVS members would be interested, please let us know. If approved, these can be publicized in the TOOT.

Bob Jablon



September General Meeting

Tuesday, September 19, 2017 @ 7:30 PM
Home of Ingrid Dallaire
8900 Clifford Avenue,
Chevy Chase, MD 20815
301-455-6962, ingrid.dallaire@longandfoster.com

directions page 3



September General Meeting Directions:

Directions from the beltway: Take Connecticut Avenue South, via exit 33, toward Chevy Chase. At the second light, turn left onto Manor Road. At the end of Manor Road, turn right onto Jones Bridge Road. Take the second left onto Brierley Road. Take the second left onto Kenilworth Drive. Take the second right onto Clifford Avenue (by a stone wall). 8900 Clifford Avenue is the first house on the left. Parking on Kenilworth and Clifford.

Directions from the city: Take Connecticut Avenue north from Washington into Maryland. After about two miles on Connecticut after crossing into Maryland, turn right onto Kensington Parkway. Take the first right onto Montrose Drive. Take the first left onto Stewart Drive. Steward Drive becomes Montgomery Avenue and Montgomery Avenue becomes Kenilworth Drive. Turn left onto Clifford Avenue. 8900 Clifford Avenue is the first house on the left. Parking on Kenilworth and Clifford.

SKI TALK September 2017

September has arrived and it is time to start thinking about skiing. First of all, check out the fliers describing our ski trips this year. We are going to Snowmass in mid-January and Big Sky in mid-February. Please consider joining us. Space is still available. Also, see the ad at the end of this column for information on a ski trip to Aspen by Best of Times ski group.

Second, check your gear. Do you need anything? What about new skis or boots, or maybe a new ski outfit? Do your ski pants from last season still fit? If you need anything or just want to get in the ski mood, consider visiting the <u>Sun and Ski</u> (previously known as Ski Chalet) <u>store in Falls Church</u> the last weekend in September for their annual ski clearance. The dates are September 29-October 1. <u>On Friday, September 29, they are open from noon to midnight, on Saturday, 10am to 10pm, and on Sunday, 10am to 6pm</u>. I just took my new Black Pearl skis and bindings to them to assemble and I was impressed with the service.

Since the Ski Center closed, we are hoping to develop a relationship with Sun and Ski. The manager, Ryan Susse, at the Falls Church store is happy to accommodate PVS. He has even agreed to open his store to us for a meeting Sunday, November 12. The staff will show us the latest skis and other equipment. He also agreed that PVS can set up a table at the ski clearance to promote our club. I am looking for people to staff the table each day for a couple hours. Please let me know if you are available.

International Travel Delays (EC261/2004):

Most of us have experienced delayed flights and know how difficult it is, especially if it means you can't fly until the next day or even the day after. Airlines may offer to put you up in a hotel and pay for meals but they rarely tell you about **EC261/2004**. This is a law the European Union passed in 2004 awarding all passengers flying in their airspace monetary compensation for delayed flights. The financial compensation varies depending on the time of the delay (or cancelation) and the length of the flight. For delays on shorter flights in Europe the compensation is E250 to E400. For longer flights from Europe to the US (or from the US to Europe) that are delayed more than four hours the compensation is E600. These flights must be the fault of the airline (mechanical breakdown) and not extreme weather.

If you took a flight even as long ago as two years and it fits the criteria, you should be able to have your claim honored. You need to fill out a seven-page "Air Passenger Rights EU Complaint Form" and mail it to the airline. You can get all of this information on line. We told friends about this who were delayed several months ago and knew nothing about the law. They filled out the forms and, to their surprise, were quickly compensated! They gratefully took us to dinner.

So, safe travels. Please sign up for a ski trip and I hope to see you at Sun and Ski.

Rosemary Schwartzbard rosemaryschw@gmail.com

BEST OF TIMES SKI TRIP

ASPEN CO: February 24-March 3, 2018

Trip Leader: Annette Kaufman (annettekauf@aol.com)

HOTEL: The cozy and welcoming **Mountain Chalet in downtown Aspen** is in a great location, just a few short steps from the gondola, free bus station (for Buttermilk, Highlands and Snowmass. Enjoy a superlative full breakfast each morning, delicious cookies and hot beverages après ski.

COST AND RESERVATION: As we've done for the past several years, make your reservation directly with the Chalet. Accommodations range from economy through deluxe. Contact Craig Melville, Innkeeper, or Steve Egbert. Reservations Manager, directly. Contact Annette Kaufman for more information.



In Memory of Judy Miller (1952-2017)

Some of us worked with Judy on many successful ski trips through the Blue Ridge Ski Council or travelled with her to European destinations. They found her to be a true professional who went "the extra mile" in seeking to arrange all trip details to be on time for local passengers as well as for 'out of town' members. She personally accompanied some of the trips, working to ensure that her clients were content with accommodations, food service and well organized sightseeing trips. Keep her memory alive!

Inge Lesjak



Potomac Valley Skiers

2018 Snowmass, Colorado Ski Trip

Wednesday, January 10-Wednesday, January 17

Female Roommate Needed.

Trip Details

Once again, we will be staying at the Snowmass Mountain Chalet (SMC), which offers a convenient ski in, ski out location. Check the web site at http://www.mountainchalet.com. The "Land Only" package includes: transportation to and from Aspen airport (7am -11pm); 5-day Senior lift pass (good for all four ski areas in the Aspen complex, free shuttle bus) with option for extra days; 7 nights lodging (double occupancy); daily breakfasts; daily soup lunch; luggage handling; a welcome reception; an "all guest" hotel sponsored party; a pizza party and a farewell group dinner to celebrate our trip. Additional nights at Snowmass are an option based on availability. Trip insurance is available through Encompasse Tours and is highly suggested. For trail information, check http://www.aspensnowmass.com.

The basic package at \$1,630 includes a lift pass discount for skiers 65 and over. Skiers under 65 will have to add \$93.00.

Costs:		<u>Price</u>
Basic Snowmass Package (65 and older)	\$1,630
Under 65	add	\$ 93
Single Supplement	add	\$1,044
Extra hotel night (pending availability)	add	\$ 310 per room per night
Non-skiers	deduct	\$ 224
Extra ski days (65 and older)	add	\$ 65 for a 6-day Senior pass
	add	\$ 110 for a 7-day Senior pass
Under 65	add	\$ 172 for a 6-day pass
Silver Pass (70+ skiing 8 or more days)	add	\$ 196

NOTE: The Silver Pass is available for skiers 70 and older for an additional \$196. If you are over 70 and plan to ski 8 or more days, you should buy the Silver Pass.

Payment Schedule

\$300 deposit is due with application. Second payment of \$750 is due August 15th. Final payment is due September 15th.

To sign up please send:

- (1) the <u>Application form</u> -- one per person or one per couple residing at the same address
- (2) a Deposit of \$300 per person and/or your payment due, and
- (3) the signed Waiver of Liability Agreement by each party taking the trip

Checks should be made out to **Kathy Lake** and mailed to 11677 Fox Glen Drive, Oakton VA 22124 (put <u>PVS Snowmass 2018</u> on the check memo line).

Kathy and Barry Lake are the trip leaders. For an application and more information, please contact us at 703-625-2715 or kathylakehomes@yahoo.com

Potomac Valley Skiers



The Potomac Valley Skiers invite you to ski Big Sky Montana

February 14 - 21, 2018



Package price: \$2,350 per person

(includes airfare from Washington-Dulles)

Non-skiers or skiers age 80+ ski for free! Please deduct \$350 from the package price.

Out-of-town skiers, please add \$25 for deviation airfare.

Only 23 spaces available - first come first serve

We will be staying in First Class Queen and Queen Hotel Rooms at the **Huntley Lodge** located just steps from the lifts. The well-appointed rooms offer guests a wet bar, coffee maker, refrigerator and sitting area. The Huntley also offers onsite restaurants, including the Huntley Dining Room, ski storage, and more.

Big Sky offers acres of terrain on three immense mountains. The base at Big Sky is a comfortable 7,500 ft. There are 5,800 skiable acres of interconnected trails and lifts, all with one pass including Moonlight Basin. Lone Peak Tram at Big Sky will take you to the 11,116-foot summit, which offers 360-degree views of Yellowstone Park, the Tetons, and all three bordering states!

Trip Package includes:

- Roundtrip Air Washington IAD Bozeman, Montana via Salt Lake City
- Roundtrip Bus Transportation Bozeman-Big Sky via private coach (1.5hr) incl. stop at grocery store
- Seven nights lodging in The Huntley Lodge in First Class Queen Rooms and Queen Hotel Rooms (ski in ski out)
- Full hot and cold breakfast buffet daily
- Valentine themed Welcome Reception
- PVS Happy Hours and at least one dinner
- A five-day Big Sky Lift ticket (skiers 80+ ski free)
- Use of outdoor heated pool and hot tub

Come ski with us!

Optional day trip to Yellowstone National Park will be offered.

Trip Insurance is recommended and is available through our travel agent, Encompasse Tours at **Encompasse.com**. (The insurance link will connect you to Travel Guard.) There are several options available, depending on your situation.

Payment Schedule: \$300.00 is due with application; \$800.00 by **20 July**; \$800.00 by **20 Sep**; Final payment is due on **20 Nov 2017** (please make checks out to Inge Lesjak for Big Sky and mail to: Inge Lesjak, 8123 Kingsview Ct., Springfield, VA 22152)

To sign up: Please send Trip Application form with 'payment due' plus signed Waiver Agreement to: Inge Lesjak, 8123 Kingsview Ct., Springfield, VA 22152)

Questions? Contact **Trip Leaders Inge Lesjak <u>Lesjak.inge@gmail.com</u> (703-869-7248) or Marianne Soponis at <u>Marianne.soponis@gmail.com</u>**

Members' Corner By J. David Warthen, Jr. dwarthen@verizon.net

<u>Thanks</u> go to 134 PVS Members for extending their PVS membership to June 30, 2019. Your promptness was appreciated. There is still time for the remaining 27 members who have not renewed, to also extend your membership.

Aloha! - The Warthens recently returned from a bucketlist trip to the Hawaiian Islands. We flew 10 hours nonstop from Dulles to Honolulu, Oahu, and stayed for 3 days at Waikiki to cope with the jet lag. We enjoyed swimming in the Pacific, along with dining, visiting the



aquarium, and touring Pearl Harbor. We then boarded our



cruise ship and sailed to Kahulai, Maui for a 2-day stay, taking an excursion each day – Road to Hana and Haleakala Crater.



Then, we sailed to Hilo, HI and took 2 excursions, followed by a night time cruise passing erupting Kilawai on the southern shore of Hawaii on the way to Kona, HI,



for a day of rest. The next day, we were off to Nawiliwili, Kauai, for 2 excursions. We then cruised along the



northern Na Pali Coast of Kauai, and continued back to Honolulu, Oahu for our non-stop flight home.

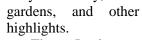
PVS Steak & Swim - 5 August 2017



23 PVSers and friends joined Kerry and Marianne Hines at their lovely home for the annual Steak & Swim celebration. The weather cooperated beautifully! After a week of scorching heat, it was breezy and cool with plenty of sunshine to go the groaning board salads, and desserts, appetizers. which were keeping those succulent steaks company.

Kerry pointed out the largest ever number of people in the pool





The Lexington, VA, contingent is growing. Jim Slack and Mary Ellena Ward were joined by new member Bruce King and his wife Suzanne. Their drive longer took than expected due to traffic accidents on I-81 and

then on VA 55, which they had taken to avoid the I-81 backups! In the small world category, Bob Knopes has good friends in Lexington who he met in Hong Kong while stationed there. Another new member present was Martha Cole Glenn who brought a triumvirate variety of deviled eggs.



Blanca Hotaling didn't quite skip and dance around to show off her new knees, but she came close! Others such as Joe Jevcak and friend Linda, Karen Knopes, Sam Lesjak, Rozzell. Maryann Mike Strand were mostly spied having more sedate conversations with old and new friends. Bob Jablon



was being very mysterious about his upcoming "illegal" president's

message in this TOOT.

Barry and Kathy Lake and Inge all had positive news of the upcoming ski trips to Snowmass and Big Sky to remind us that we are, after all, a club of skiers as well as eaters.

Thanks to Kerry and Marianne (and their four-footed co-hosts) for their gracious hospitality once again!

Frederick H. Leonhardt March 22, 1937 – August 24, 2017



Frederick H. Leonhardt, PVS member since 1982, died Thursday, 24 August, after a brief battle with cancer. Survivors include his wife (Barbara), his sister (Phyllis) of Tacoma, Washington, a niece (Amy), and a nephew (Jeff). Fred was born in New Jersey. He attended Lehigh University in Pennsylvania, and attained a math degree at the University of Kansas. Fred was employed by McDonnell Douglas, St Louis, MO in computer technology, prior to being transferred to the Maryland office. He then worked as a new home building contractor with the management team of C. I. Mitchell & Best. Fred also served four years in the Air Force, one year of active duty and three years in the reserves. Fred was noted for his sense of humor, as well as his kindness. He also was a great skier, always keeping up to date with the latest ski accessories.

The Leonhardts have graciously hosted many PVS meetings at their home. They also led ski trips (especially the early ones to the Snowmass Inn in CO); and hosted several PVS events, such as Annapolis area boat rides, Segway tours, etc. over many years.

On Thursday, 31 August, there was a visitation hour at 10:00 AM at the Thibadeau Mortuary Service http://www.interfaithfunerals.com>, 124 E. Diamond Ave, Gaithersburg, MD, followed by a service at 11:00 AM. Three main speakers eulogized Fred: Ted Horning from Kansas – Fred's Best Man, Serge Triau – former PVS President and long time friend, and Margaret Wyckoff – PVS sponsor of Fred and Barbara. Interment of the cremated remains will be private at the Woodlawn Cemetery, Bronx, New York.

Donations, in memory of Fred Leonhardt, can be made to Montgomery Hospice, Inc., 1355 Piccard Dr., Suite 100, Rockville, MD 20850.



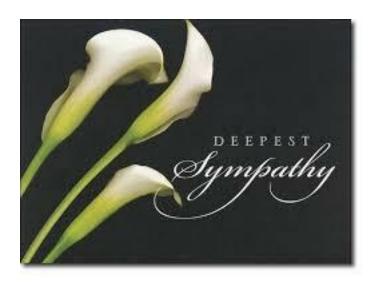
In Memory of Dorothy Mills, July 11, 1920 – August 23, 2017

On August 23, 2017, Dorothy Mills died peacefully under the care of the staff at Goodwin House, Bailey's Crossroads. On August 31, a visitation and funeral were held at Murphy's Funeral Home in Arlington, VA, followed by interment in Rock Creek Cemetery in Washington, DC.

Dot joined PVS in 1980 and served on ExCom from 1982 to 1983. The following is her profile, written by Helen Price, printed in the May 1982 TOOT:

If at first you don't succeed in reaching Dorothy Mills on the phone, try, try again. With all her many interests and activities, she seems always "on the go." Having taken an early retirement from Government service several years ago, Dorothy is one who can enjoy "full time" her beautiful brick rambler in North Arlington where she not only maintains the house but a large yard with numerous flower beds and shrubs and a fish pond swarm[ing] with gold fish and frogs. Dorothy, born in Norfolk, Va., has been a Washington resident since the age of 10. She attended McKinley High and graduated from Wilson Teachers College. After a brief stint as a teacher in the DC school system, she joined the government intelligence service where she remained until her retirement in '75. Dorothy started skiing in 1955 during a two-week trip to Stowe and was immediately hooked. After a Wyckoff trip to France in 1980, she joined PVS. When Dorothy is not on skis or working in her yard, she may be found seated at her grand piano practicing for her next music lesson or an upcoming recital. She has a great love of music and attends many operas, ballets, concerts, etc. She also enjoys swimming, boating, hiking, ice skating and tennis. With these many interests, she will make a welcome addition to ExCom.

Submitted by Ellie Thayer



WILLIAM ROBERT BROWN 1929 - 2017

William "Bill" Brown of Bethesda, MD died March 18, 2017 at Sibley Hospital, Washington, DC.

Bill was born in Dillard, GA in 1929 to William R. Brown, Sr. and Elizabeth Carnes Brown. He graduated from the Rabin Gap-Nacoochee School in Dillard, earned a BA in political science at Oglethorpe University in Atlanta, and an MA in economics at the American University in Washington, DC.

After serving as a cryptographer with the 7th Army in Stuttgart, Germany, Bill began a 32-year career with the Central Intelligence Agency in Washington. He was part



of the Fred Ruffing team that established the first Agency-wide data processing center. In 1987, he was awarded the Career Intelligence Medal. He was a Master Gardener, volunteer tax preparer for seniors and a director on his community condo board. In retirement, he continued to pursue his avocations of gardening, cooking, tennis and traveling with his wife and close friends, especially to Vail, CO and Rehoboth, DE. He was noted for his wit, generosity, good humor and political insights.

He is survived by Susan Clark Brown, his loving wife of 48 years; his sister, Kathleen Efird of Harrisburg, NC, her family and the family of his brother, David A. Brown (deceased) of Chattanooga, TN.

A memorial service will be held at a later date.

Published in The Washington Post on Mar. 31, 2017

Bill joined PVS around 1987 and remained a member for 26 years until 2013. He served as an ExCom Member in 1990.

Profile – April 1980 http://pvskiers.org/TOOT/1990-1999/Apr90.pdf#page=7>









PVS Calendar 2017:

Sep 19 Tue September General Meeting, 7:30 PM, Dallaire, Chevy Chase, MD

Sep 26 Tue ExCom Meeting, 7:30 PM, Jablons, Washington, DC

29-Oct 1 Annual Sun & Ski Clearance, Falls Church, VA (See Ski Talk, p. 3 for hours) Sep

PVS Monthly Meeting, 6:00-8:00 PM, Sun and Ski, Falls Church, VA, Nov 12 Sun

PVS Ski Trips 2018:



January 10-17, 2018 Aspen/Snowmass 2018, Colorado (Barry & Kathy Lake)

February 14-21, 2018

Big Sky Montana, (Inge Lesjak & Marianne Soponis)

Useful Ski "Links"

Potomac Valley Skiers BRSC Sanctioned Trips DC Ski Online News Best of Times Ski Club



ExCom

Officers:

President - Bob Jablon V. President – Janet Marx Secretary – Ellie Thayer

Treasurer - Dick Schwartzbard Ex Officio - Carolyn DeVilbiss

Board Members:

First Term:

Inge Lesiak Nancy McKinley Tom Tvcz

Second Term:

Barry Lake John H. Smith Ellie Thayer

Chairpersons:

Ski Trip Committee - Rosemary Schwartzbard Events - Ray and Nancy McKinley Membership Records - Dave Warthen Membership PR Reps - Inge Lesjak &

Marianne Soponis

TOOT Coordinator - Ellie Thayer

TOOT Layout Editors – Jan Marx, Kerry Hines & Dave Warthen

TOOT (E-Distribution) - Dave Warthen TOOT (USPS Distribution) - Barb Leonhardt,

June Read, Liz Triau

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Meeting Records - Sue Lyon

Historian – Jan Marx

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Roster Changes: (contact <u>dwarthen@verizon.net</u>)