



Opening the Door on Open Records Requests

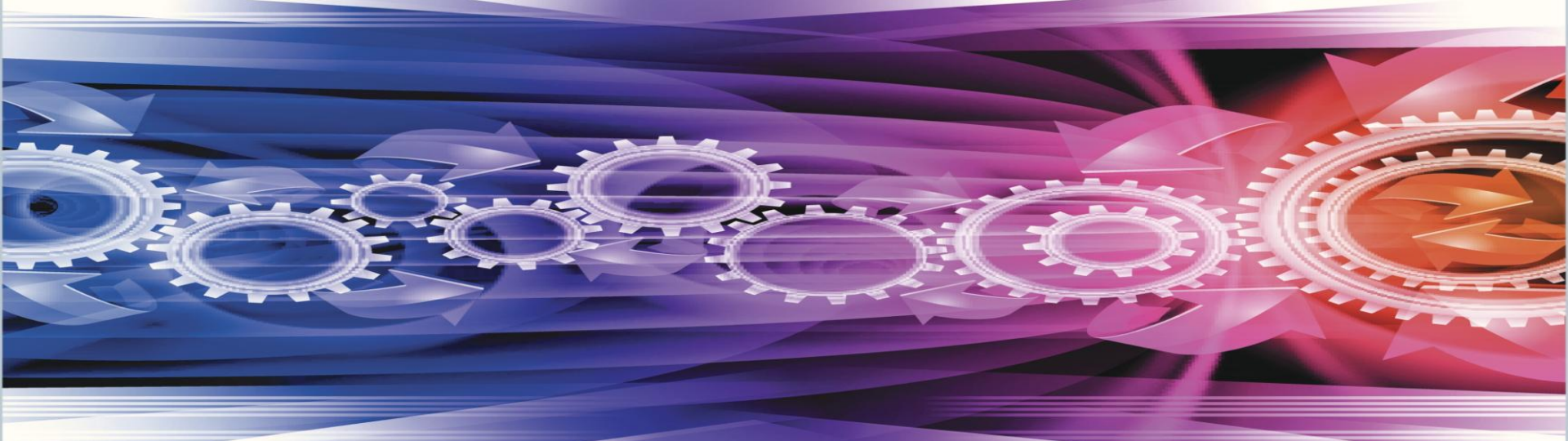
NARUC Annual Meeting

La Quinta, California

November 16, 2016

Welcome to THE HOT SEAT!!





Moderator

Hon. Lamar Davis, Arkansas

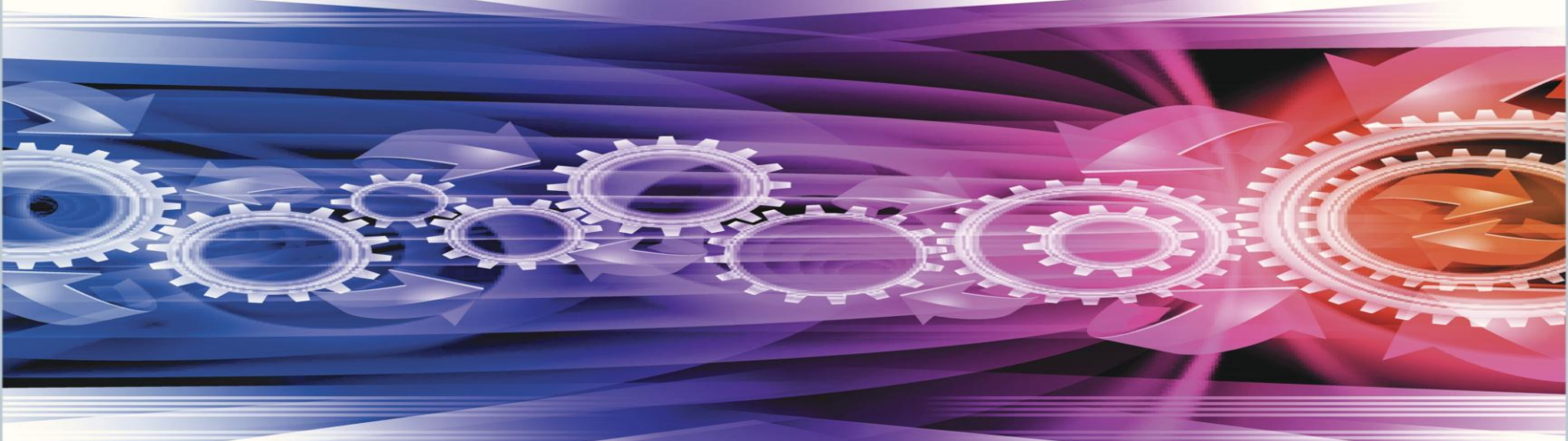
Participants

*Kelly Speakes-Backman, Alliance to Save Energy,
Commissioner Emeritus Maryland PSC*

*Rich Heidorn Jr., Editor-in-Chief & Co-Publisher, RTO
Insider LLC*

Jennifer Murphy, Assistant General Counsel, NARUC

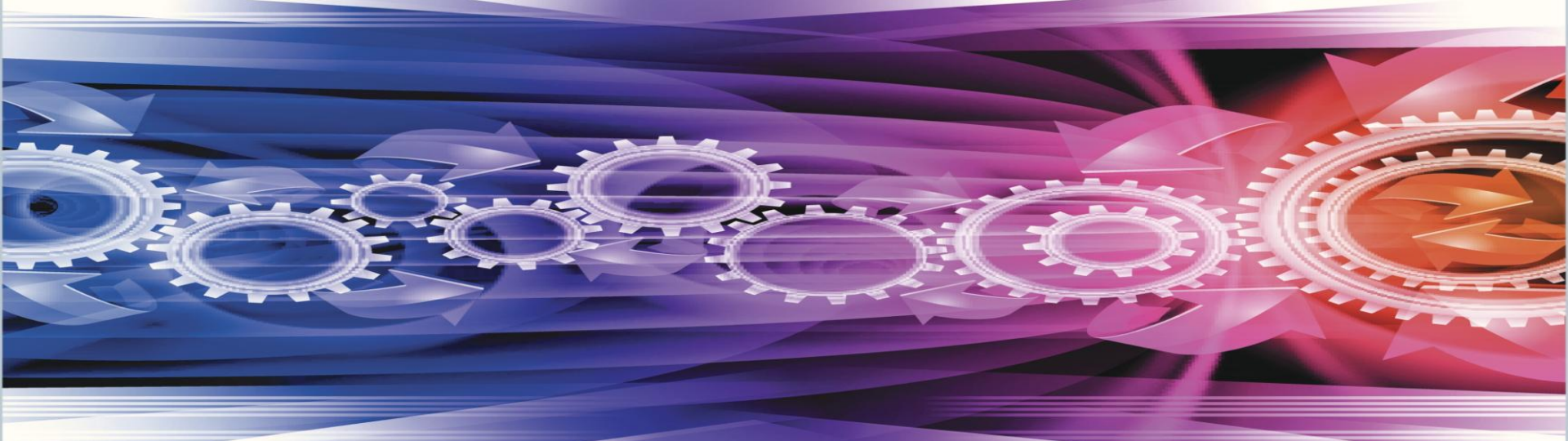




Polls



*Take a few minutes
to answer the
polling questions
on your app.*



Responses & Discussion



*And the results
are...*



What's Really Going On?

What's At Stake Here?

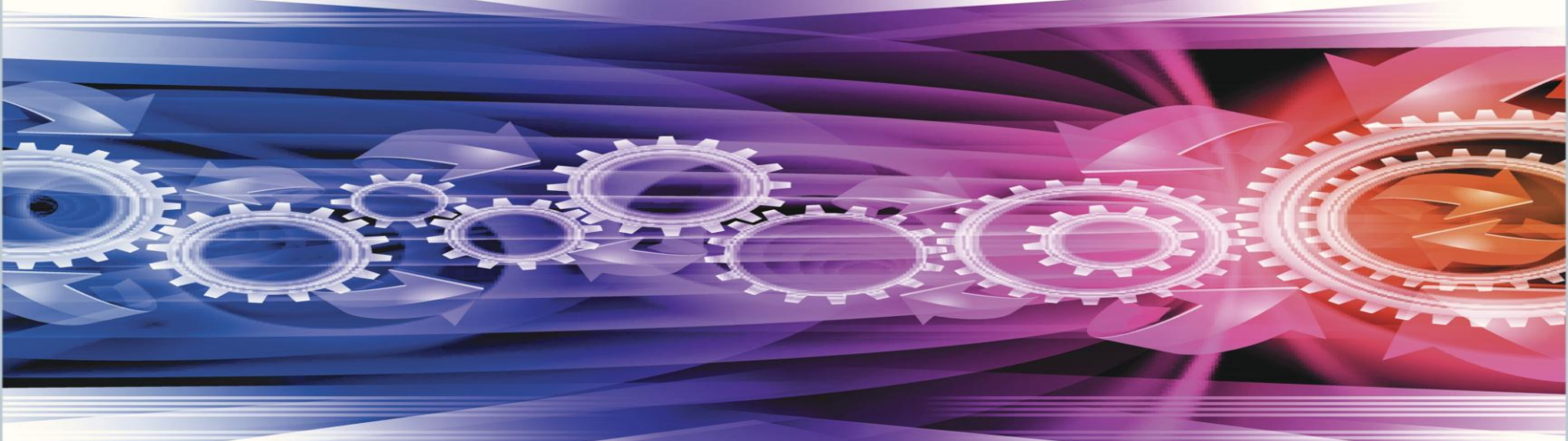
Open Records

FOIA

Ex Parte

Transparency

Process



From the Commission perspective, how does ex parte help or hinder the process?

I think it's an important part of a fair and just process with many parties involved often at odds. Clear rules about ex parte can serve to ensure that consumer protection is prioritized, as they are often not in the room during most proceedings.

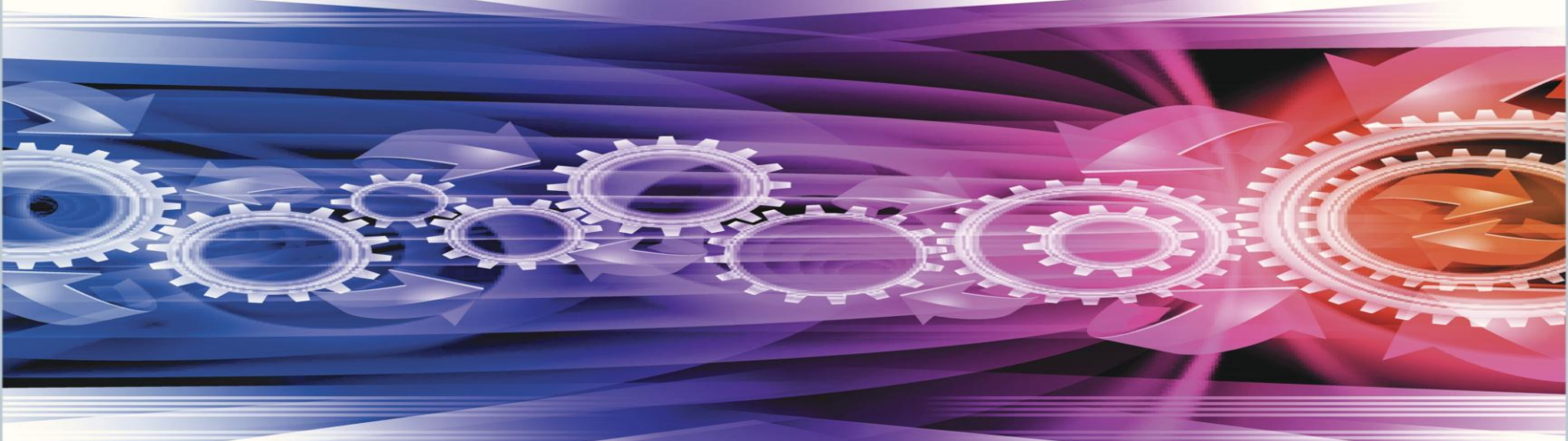
—*Kelly Speakes Backman, former Maryland Commissioner*



At the Maryland Commission, how were open records requests managed?

Often comes through the media relations office or filed with the executive secretary, relayed through to the office of general counsel, and handled there without commissioner intervention

—*Kelly Speakes Backman, former Maryland Commissioner*



What can Commissions do to work more effectively with members of the press?

a. Be accessible at all times, respectful of their deadlines, prepare FAQs with content owners in advance of any major commission orders, and have reasoning and principles to provide for non-disclosure.

—*Kelly Speakes Backman, former Maryland Commissioner*



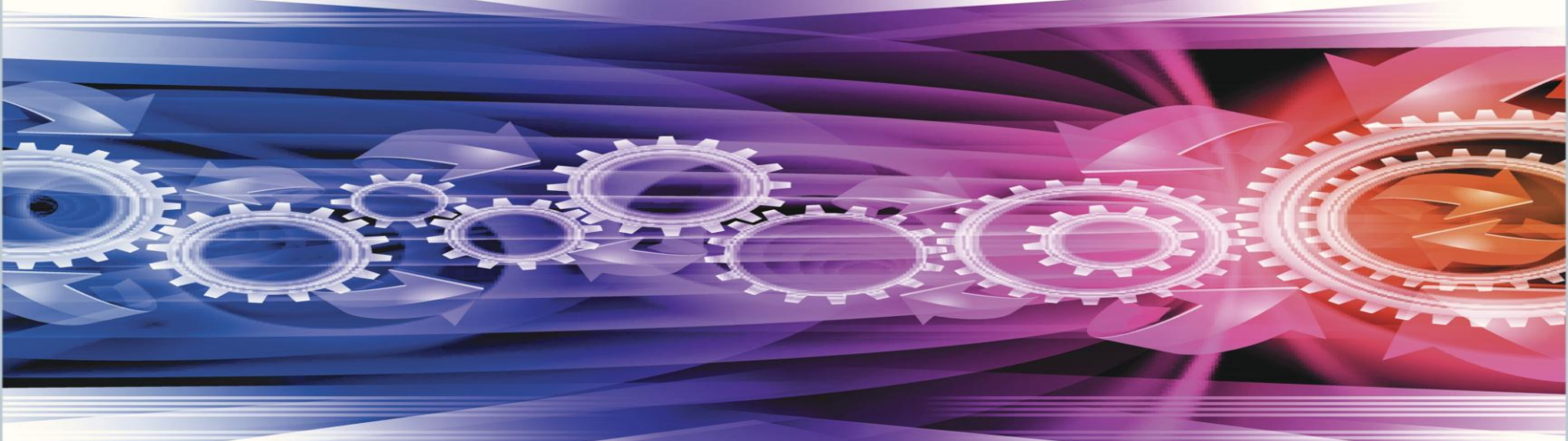
Parting Gifts

**The Path to Fearless FOIA
&
Open Records with Open Arms**



Important Take-aways

- Dance Like No One is Watching; Email Like It May One Day Be Read Aloud in a Deposition
- Practice Proper Email Hygiene
- Good Communication between Requestor and Responder is Important



Important Take-aways

- Assume everything Commissions do is discoverable, unless expressly marked as confidential or deliberative.
 - Have a policy in place regarding social media applicable to all employees, especially those with access to confidential documentation
 - Understand your audiences and who your stakeholders are. They are not only the “regulars” in adjudicatory cases.
- K Speakes-Backman



Open Records Laws: A State by State Report



December 2010

NACO National Association of Counties
The Voice of America's Counties

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Resource

*Open Records Laws:
A State-by-State Report*

*The National Association
of Counties*



Questions?