She'elah: In a case where Shabbat doesn’t begin until very late on Friday night, say 9:30pm (Vancouver in late June), and therefore the earliest time to bring in Shabbat would be plag minhah, 7:30pm. For those who would be going to synagogue for Kabbalat Shabbat/Ma’ariv, dinner wouldn’t begin until around 9:00pm, which is too late for many reasons (kids, minyan, etc...). What should the communal practice and/or personal practice be in this situation, according to Halakhah? To begin Shabbat before plag minhah? Or, might we prefer for Shabbat to be accepted right at plag minhah, have kiddush and dinner eaten right after candle lighting, and then a communal davvening to be held at 9:00 or 9:30? Or, should the only communal davvening be minha late friday afternoon, with some communal singing to bring in the Shabbat mood before folks go home to make Shabbat?Teshuvah: Before getting into the rich details of the legal tradition, a note on the importance of this question and the many issues that need to be addressed. In many ways, the communal space for bringing in Shabbat becomes a sacred haven for Jewish communities. While one could claim that individuals and families ought take sole ownership of a part of their Shabbat experience in the home, reality forces us to recognize that creating Shabbat space at synagogue is essential for so many people in our communities. For families with young kids who go to sleep early, for those who would otherwise be alone Friday night, for those for whom the synagogue is a significant religious or social outlet—removing this opportunity has serious ramifications. We must also not forget the inherent power our tradition ascribes to the minyan and communal davvening, so often buttressed by the powerful verse, “BeRov Am Hadrat Melekh,” legally interpreted as, “God’s splendor is most present in the multitudes of people (during ritual acts).” Finally, we must always remember that accepted and long-held communal practices hold significant weight in Jewish Law, even in cases

1. I would like to thank my teachers and colleagues, Rabbis Elliot Dorff, Brad Artson, Justin Goldstein, Ronit Tsadok, Dan Selsberg (for whom this is a very real issue during 4 months of the year) and Dr. Aaron Amit for their thoughtful comments and edits to this teshuvah. Of course, all opinions stated are my own and any mistakes are fully my responsibility.

2. This paper will take for granted that the earliest time one can begin the next day, supported by the vast majority of our textual tradition, is plag minhah (see next footnote). This is based on the overwhelming majority of explicit halakhic sources, some of which will be cited in the paper. We must also recognize that communal practice has not always reflected this. Again, this paper will attempt to try an honor the explicitly legalistic textual tradition and the ideals it portrays, while also taking communal minhag into consideration. See footnote #7. For the explicitly legal-textual evidence, see Shmirat Shabbat K’hillkhata 52:6. One could make the argument that midday Pesach, the time for not eating hametz contradicts this. I would argue, however, that that law relies on a particular sacrifice for a particular holiday, without a way to use it to impact our case. See also Responsa Minhag Shlomo, 1:3, for a discussion and affirmation of this argument. It can be found at the end of this responsum.

3. Plag minha: The prevalent practice is to calculate plag minha as 1 & 1/4 halakhic hours before sunset.

4. 7:30 in this case. See the Shulhan Arukh source on page 6 for this permission.

5. For many communities in similar time zones, the new daylight savings times also heighten the implications of this question.

6. Proverbs 14:28
where they conflict with our authoritative and textual tradition and its explicit laws.\textsuperscript{7} Any decision must deal seriously with these considerations.\textsuperscript{5}

But also, Shabbat is a *mitzvah asheh/lo ta’aseh sh’hazman gerama*,\textsuperscript{9} a time-enacted Mitzvah with a set of time-enacted imperative and prohibitive commandments. While we may begin Shabbat early (from plag onwards), it is still at a time that can be rabbinically considered to be part of the next day. Given how alienated humanity is from the rest of creation, and the high price we pay for our rupture from natural cycles, seasons, temperatures and even the cycles of light and dark, it is virtually self evident that the commanding power of Jewish holy days and festivals connects us to the world around us. Observant Jews are aware of the setting of the sun and its rising, the cycles of the moon - with its waxing and waning, and can look to the sky for midday. These ways of truly living in the world are facilitated by the liturgical calendar, by the reality that Shabbat beginning is a relating of astronomical events with human self-definition. Especially in our environmentally-awakening time, to weaken or sever those links is tragic. It is for this reason that Birkat Ha-Mazon is not a time-enacted mitzvah. We enact the obligation only when we eat despite the fact there is a time-frame in which we must recite Birkat Ha-Mazon afterwards. Our bodies create the necessity. Not so, Shabbat. With Shabbat, we answer to the night sky itself.

Divorcing the 'personal/introspective' aspect of Shabbat from the 'biological/astronomical' aspect seems to me exactly what our tradition should oppose. And yet, this modernist conceit is becoming more common, especially with Passover Seders happening well before or after the appropriate days, as with severing the connection between Shabbat and the cosmos. Without dismissing the blessing of individuality and diversity, there is also blessing to be found in celebrating our place in creation and our inability to speed up, or slow down, the heavens, just as the tradition invites us.

Indeed, the permissive teshuvah on ma’ariv before plag minha of the Terumat Ha-Deshen (#1)\textsuperscript{10}, while certainly authoritative due to Rabbi Isserlein’s well-earned stature, in my mind only explicitly legitimizes communities that already have a long-standing tradition of taking on Shabbat before plag minnah. While I wouldn’t necessarily want to prevent them from continuing this practice,\textsuperscript{11} I would also try to encourage them to consider an option this teshuvah will advocate. A robust,
compelling, reasoned halakhic case has yet to be made for advancing Shabbat before plag minnah. Even if one could reasonably prove that ‘b’ode yom gadol’ really does mean before plag minha, using it halakhically against the weight of the tradition, in order to reshape halakhic time when an alternative is readily available is an unnecessary stretch. On top of that, the Terumat Ha-Deshen teshuvah is addressing ma’ariv only, not beginning Shabbat early and making kiddush ha-yom. They are not the same, nor should they be considered the same. While he does give one example in his teshuvah of a community that began Shabbat too early, it is a case of “ani shamati”, not very explicit in its details, hence, not explicitly permitted by him beyond that.

I think accepting Shabbat promptly at plag minnah, chanting kiddush, eating dinner, and then davvening, is the preferred path any community should employ. That allows one to eat and recite the Shabbat blessings in their proper time and then davven ma’ariv privately at home. Also, the minnah minyan should continue to meet before Shabbat at 6:00 and ideally become the central communal space for the evening. For those rabbis who want to maintain an aspect of the joyful pre-shabbat Kabbalat Shabbat, it would be permissible to sing these psalms with an extra kaddish, provided that they maintain the express intention not to take on Shabbat before its time and refrain from making the rabbinnically ordained synagogue kiddush.

But, 1) Is kiddush ha-yom permitted before sunset, like davvening? And, 2) Is kiddush ha-yom before Kabbalat Shabbat and ma’ariv permitted? Or, is taking on Shabbat earlier than plag minha the only reasonable option for a situation beyond one’s immediate control, like the question stated in the she’elah above?

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12. This is point is essential. Even for those who allow the derabbanan aspects of maariv to be recited early (berakhot and such), the prevailing halakhic opinion is that once nightfall happens, one should return and say the paragraphs of the Shema, without berakhot, in order to fulfill the de’oraita obligation of Shema “when you lie down”, i.e., in its appropriate time. The Terumat HaDeshen even says this in his teshuvah as a way to permit people to remain in communities that davven ma’ariv too early. Undoubtedly, Katz does show in his article that some poskim didn’t even require a late Shema to be recited. Which is to say, some allowed for even the de’oraita aspect of ma’ariv to be said before actual night, even before plag minha in some cases. While that may be a s’nif le-hakel for those who wish to allow kiddush to also be said before plag minha, this paper contends that making the same general permission for the onset of Shabbat has wider and more significant implications to how we manage holy time. Consider also the implications of allowing one to fulfill the obligation for leishhev ba-Sukkah, clearly de’oraita on the first night of Sukkot, before plag. In any case, since all agree (on some level) that kiddush ha-yom is a de’oraita obligation, it is hard to compare it to the ma’ariv service. (See M.T. Laws of Prayer, 3:7; and SA, OH 235)

13. Which is to say, permission could only be deduced from his responsion for communities that already have a longstanding practice to do this. To be clear, there is no halakhic ‘ideal’ here. No option is perfect, and the situation is in many ways b’diavad. But is there a best option of the imperfect ones?

14. Which could mean either individually or with a late minyan. Though, a late minyan in these few months could be unreasonably late. It would be up to each rabbi to decide what is best for their respective communities.

15. I address this again in my conclusions. There are, indeed, challenges with the last piece, the late minyan. This I admit. However, this teshuvah prefers to use halakhic maneuvering to support the kiddush and oneg-Shabbat in its textually-supported proper time, over the communal ma’ariv service and even kaddish.

16. This point is also crucial. The main reason I would prefer that no official Kabbalat Shabbat and/or no part of ma’ariv is officially said is because legally there are several liturgical points during the service that have the potential of bringing in Shabbat, even without intention, if it is after plag minha. Admittedly, if it is before plag minha these prayers would likely have no cosmic impact, however, the confusion over what the service implies and what is actually happening is enough to warrant a hybrid position. For the various times Shabbat can be accepted by a community or individuals, see Shmirat Shabbat K’Hilkhatah, Ch. 46.
The Early Kiddush - Before Sunset but after Plag?

The primary source is B. Berakhot 27b.

R. Hiyya b. Avin says: Rav would pray the Shabbat Amidah while it was still erev Shabbat. Rabbi Yshiya prayed the Amidah for motzei Shabbat while it was still Shabbat.

Rav would pray the Shabbat Amidah while it was still erev Shabbat. Does [that mean] one should say the kiddush over a cup, or not?

Come, learn - R. Nachman said in the name Shmu'el: A person [may] say the Shabbat Amidah on erev Shabbat and make kiddush over a cup. And the law follows him [Shmu'el].

This source can be read in two ways. 1) It permits reciting both the Amidah and the kiddush of Shabbat before Sunset [but after plag], and does not mandate any particular order. It is simply stating that each might be done. Or, alternatively 2) The way in which the final statement is ordered implies the chronological order in which the two practices might be recited. I think the preferred reading is the former.

The Rosh comments:

One might think that since the kiddush is a de'oraita (Tora'itic) obligation, that it cannot be recited while it is still day. But the [proper] conclusion is that even the kiddush may be said [before sunset], as it is written, "Mention the day of Shabbat," which implies close to its [astronomical] commencement. For the Torah doesn't teach, "Mention it IN THE day."

The Rashb'a concurs with this conclusion, and is even more explicit:

That which Shm'uel said... - [kiddush may be recited] immediately, even before sunset. And also Rav's statement is related in its opposite: One may pray the weekday Amidah [for motzash] while it is still Shabbat and say havdalah over wine, immediately, and to say that with this havdalah it is permitted for him to do melachah in the evening and it is permitted for him to eat and so too with this kiddush on a cup it is permitted to him to eat on shabbat. And Rav Hai Ga'on agrees, and so does the Ra'avad. And even though some Geonim Z"L claim that neither kiddush nor havdalah may be said until night - there is no reasoning behind this opinion. The first [opinion] is the essence of the matter.

The Pn'ei Yehoshua adds another level to our question, the difference, legally, between ma'ariv and kiddush. Namely, tefillah is derabbanan17, and ma'ariv is of a slightly lesser status (reshut that...
became halakhah), but kiddush is de’oraiya. At the very least it is an asmahta, therefore still commanded by rabbinic interpretation.18 The Pn’ei Yehoshua further clarifies and also tries to explicate the reason for the Geonic stringency. I’ll underline the pertinent pieces:

This opinion, that kiddush may be recited before sunset, is also shared by the Rambam (Laws of Shabbat 29:11), the Bach (Responsa HeHadashot, 51) and is codified in the Shulhan Arukh:

Since kiddush must be said before the Shabbat meal (and any eating before kiddush is actually forbidden by the rabbis as an assault on k’vod L’Shabbat, the honor of Shabbat - see below) this text makes clear that kiddush may be recited before sunset, but only after plag.

It appears that the majority of poskim allow this shift to an earlier recitation to happen because many of the berakhot are generally accepted as rabbinic. See B. Berakhot 20b.

18. See B. Hullin 64b. See also the first Bach to TUR, Orah Hayyim 242.

19. See Mordechai to the end of the second perek on B. Megillah.
Nevertheless, one problem persists. While the Shulhan Arukh text above indicates one can recite kiddush early, can that recitation precede ma’ariv? Karo indicates that eating occurs only after the davvening, which officially constitutes the acceptance of Shabbat. But is that necessary?

We find in the Arukh HaShulhan:

This text clearly sets a precedent for kiddush before ma’ariv. This view is also explicitly stated several times in Shmirat Shabbat K’hillkhatata by Rabbi Yehoshua Neuwirth.20

In cases of need, like the situations mentioned at the outset of this teshuvah, one can certainly rely on these sources to adopt this practice. If a family or individuals feel the need to eat at plag, the 1/2-hour worry shouldn’t really matter because it happens well before nightfall. Additionally, the Hofetz Hayyim said that this stringency can be easily lifted.21

Yet, many still have the impression that kiddush is only possible after davvening is complete. This debate is most relevant to Shabbat Shaharit and is often misunderstood. Traditionally, we don’t eat and recite kiddush until after we have finished davvening Shaharit. If that is hard-line law, then, it would mean reciting kiddush and eating dinner before Kabbalat Shabbat/ma’ariv, which would be impossible. However, the set of questions one would ask for daytime kiddush and the evening kiddush are not necessarily the same.22

I see two possible textual objections to moving kiddush and dinner before davvening. The most significant rabbi against this practice is the AR”I. Rabbi Yaakov Chaim Sofer (1870-1939, Bagdad) quotes the following in his name:23

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20. See there 47:23, α:1 & 2, as well as 54:33, α - c.

21. This point is dealt with more extensively below.

22. What’s behind the not-eating-without-kiddush-only-after-davvening-practice? The question hinges on whether or not the obligation to make daytime kiddush exists on its own, separate from tefillah, or only after tefillah, meaning, tefillah-enacted. For an in-depth look into these laws, see: Tur, OH, 89 & 289. For the question of daytime kiddush as D’oratia or Derabbanan, see M.T., Shabbat, 29:10, Rashba’a (Responsa 7:529), the Ran to B. Pesachim 106a.

23. Sefer Kaf Ha-Chayyim, Orakh Hayyim, 271:22
"...However, according to the words of the the AR'I z'l in Sha'arei Kavanot it would not be correct to do this. He wrote that the order of the elevation of the worlds and the attraction of the consciousness begins with Kabbalat Shabbat, and afterwards with the recitation of barkhu, kriyat shema, amidah, va'yerkelu, the me'ein sheva brakhah (magen avot through adon ha'shalom). And then afterwards the conclusion is with the va'yekhulu over the cup and the blessing of kiddush, as is shown elsewhere. So if you were to come and make kiddush and eat before ma'ariv, this would upend the 'order' which is done Shabbat evenings."

In other words, the transformation of our souls into "shabbat mode" is based on the theurgy of the rituals, but only in their proper order. I find this to be quite powerful and something to aspire to. Yet, in my opinion, it does not necessarily mean that one must always keep the order in tact in order to fulfill their Shabbat obligations and 'transform' the soul. There are certainly times, as this teshuvah points out, that permit us to upend the traditional order for alternative and solid reasons.

There is also one general prohibition, seen above in the Arukh HaShulhan text, that one shouldn't eat within a 1/2 hour of the ideal time for ma'ariv (3 stars). Apparently, this directive was instituted to make sure that one's meal didn't drag on or cause him/her to sleep, thereby missing ma'ariv. However, the 1/2 hour gap is a stringent position. The Taz holds that it is really just a moment before the official time that one shouldn't eat. Furthermore, the Hafetz Hayyim adds that if one can ask for a reminder to davven maariv after the meal, one need not worry about eating before the time for ma'ariv at all. With this provision, one could even eat as the ideal time for ma'ariv approaches.

Beyond this and the position of the AR'I, there is no other textual reason I can think of to prohibit this. Even if one would not want to rely on the affirmative texts from the Arukh Ha-Shulhan and the Shmirat Shabbat K'hilkhat as precedent, it seems that no solid and all-encompassing objection exists to the practice of reciting kiddush and eating before Shabbat davvening. It should therefore be a valid option for our communities.

P'sak Halakhah

1) For communities that are presently trying to find a solution to this problem:

a) This teshuvah recommends that they continue to hold a prayer service at their normally scheduled Friday night time, but only davven minha formally. They should add a few Shabbat Psalms to sing together, add another mourner's kaddish, and then people can make kiddush on their own and davven ma'ariv after they eat their dinner.

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24. Page 4  
25. See SA, OH 235:2 with comments from the MB.  
27. Ibid, Sayyif Katan 18  
28. This line of thinking does maintain, still, that once the candles are lit, one should not eat anything until kiddush is concluded. Since the whole idea is to begin and end the Shabbat meal early, this shouldn't be a problem. The meal will happen immediately after candle lighting. See TUR, OH, 271:4. Of course the usual exceptions remain in force. (sick, elderly, children, etc..)
b) For some congregations that prefer to daven a full Kabbalat Shabbat and ma'ariv together, this could also mean forgoing an early minyan and instead joining together for a 'late minyan'.

While holding both an early minha minyan and later, post-dinner Kabbalat Shabbat and Ma'ariv minyan is a theoretical possibility, I think we need to recognize the stark practical challenge for both rabbi and congregants to applying this in practice.29

In either case, during these months, the rabbi may also want to make sure to add another Mourners' Kaddish to the morning davening, to respect those who are observing yartzeit so that they won't miss an opportunity to recite the prayer in honor of loved ones.

2) For those communities who already have a longstanding practice of keeping one time all year for ma'ariv, even on erev Shabbat: during the summer months, when it means taking on Shabbat before plag minha, they may continue to do so. They sit squarely within the boundaries of accepted minhag and find support from the Terumat Ha-Deshen and the Leket Yosher (I, 50).30 In these communities Rabbis should remind their constituents to recite the Shema again at home after it is dark. However, with this permission come alternative challenges. From the moment that Shabbat is communally taken on all Shabbat prohibitions are enacted.

3) For communities who do not have a long-standing practice already of taking on Shabbat before plag minha but find the option in p'sak #1 impossible to institute for a variety of reasons: we have to be honest and acknowledge that all minhagim, whether at variance with our traditional sources or in line with them, began at some point, likely for the very good reason. This teshuvah, while clearly favoring the options outlined in p'sak #1, gives significant latitude to each Mara D'Atra and her community. There is precedent for multiple authentic and halakhic possibilities.31 I would also assert that in order to choose this route a communally compelling and distinctly religious case needs to be established and articulated that takes into account, for example, the challenges laid out in first paragraph of this paper. And, if instituted, should be regularly reassessed to ensure it continually ensures the goals for which it was originally put in place.

29. As I've stated earlier, the late minyan is not uncomplicated and is not as common as it once was. For some communities it is an essential need. Others find no appeal in it. I am not making a value statement on this practice one way or another. Some communities may not find this option tenable. For others, it may work. Either way, in dealing with this less than ideal conundrum, each community will have to decide what most fits in with their goals and vision for a Shabbat community.

30. A colleague who read a draft of this paper asked whether the nature of the community that holds a practice explicitly against normative halakhic practice holds the power to retain that practice. In this case, may a non-observant community’s minhag drive practice? There is a lot of debate as to whom Schechter’s Catholic Israel refers. Observant communities? Committed communities? Something in between? Frankly, I am yet to be fully persuaded by any of the arguments. One could make the claim that only observant communities (how would one define this?) may be instrumental in enacting authoritative change. History certainly shows this to be the case. Conversely, the non-observant have also completely transformed or erased ancient halakhic categories to meet modern needs. See Responsa Melamed Le-ho’il, 1, OH, 29. Therefore, it seems appropriate to allow the mara d’atra to determine the threshold for determining how to balance communal practice when it collides with authoritative textual sources.

31. In any of these cases, Shavuot that begins on Saturday night may cause an issue because one cannot detract from Shabbat for the sake of hag, which is deemed lower in holiness than Shabbat. Still, one could still daven ma’ariv so that it is complete by Yom Tov candle-lighting time, allowing for dinner to take place as soon as possible.
1) The full text of Terumat Ha-Deshen #1:

The Validity of the early kiddush according to Repsonsa Minhat Shlomo:

She'elah: [Question, similar to the previous one regarding the kiddush]

Responsa: [Response, discussing the validity of the kiddush according to Minhat Shlomo]

The full text of Terumat Ha-Deshen #1: [Additional details or context]

Appendix

2) The Validity of the early kiddush according to Repsonsas Minhat Shlomo: